

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS  
FOR MONTGOMERY COUNTY

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:  
PETITION OF CHELSEA RESIDENTIAL : Case No. G-892  
ASSOCIATES, LLC :  
(an affiliate of EYA) :  
:  
-----X

A hearing in the above-entitled matter was held on July 18, 2011, commencing at 9:57 a.m., at the Council Office Building, 100 Maryland Avenue, Room 200, Rockville, Maryland 20850 before:

Lynn A. Robeson, Hearing Examiner

A P P E A R A N C E S

ON BEHALF OF THE APPLICANT:

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ON BEHALF OF THE OPPOSITION:

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Rockville, MD 20850

Page

WITNESSES:

Christine Morgan	15/27/28
Neighbor in Opposition	
1008 Woodside Parkway	
Silver Spring, Maryland 20910	

Miguel Iraola	29/83/102
Expert in Land Planning	104/104
Hord Coplan Macht	
750 East Pratt Street, Suite 1100	
Baltimore, Maryland 21202	

Martin Wells	106/118/120
170 Jennifer Road, Suite 1100	
Annapolis, Maryland 21401	

Bob Youngentob	136/204/224
Expert in Urban Land Planning Design/ Real Estate Development Finance	
EYA, President	
4800 Hampden Lane	
Bethesda, Maryland 20814	

ALSO PRESENT:

Anne Spielberg	4
Community Opposition Representative	
606 Greenbrier Drive	
Silver Spring, Maryland 20910	

Song Volk	104/224
Neighbor in Opposition	
8504 Springvale Road	
Silver Spring, Maryland 20910	

John Millson	120
Neighbor in Opposition	
8603 Springvale Road	
Silver Spring, Maryland 20910	

E X H I B I T S

		<u>Marked</u>	<u>Received</u>
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1 don't have a copy and I wonder if we could check and if not,  
2 I'd like to enter it. She also referred to it. I believe  
3 it is -- should we mark this one first?

4 MS. ROBESON: Yes. I have -- Mr. Harris, do you  
5 have any objection?

6 MR. HARRIS: No objections, no.

7 MS. ROBESON: I have this as 205.

8 (Exhibit No. 205 was marked for  
9 identification and received into  
10 evidence.)

11 MS. SPIELBERG: And then the one other letter,  
12 which I just want to check is in the record, that she also  
13 referred to, I believe it may be Exhibit 135 but I  
14 unfortunately don't have a copy and I was unable to check it  
15 before the hearing because the official file was --

16 MS. ROBESON: Okay. I am looking for the right  
17 folder. 135?

18 MS. SPIELBERG: Yes.

19 MS. ROBESON: And that is supposed to be a letter  
20 of opposition from Kathleen Samiy?

21 MS. SPIELBERG: Right. It's on -- but the reason  
22 I have a question is the day, I think the date that's  
23 reflected on the exhibit list is when it was received but  
24 actually, the date of the letter is different and I just  
25 want to make --

1 MS. ROBESON: Okay.

2 MS. SPIELBERG: So I'm just trying to check  
3 whether it's the right document.

4 MS. ROBESON: I understand. Okay. I have, it  
5 says sent via fax 5/16.

6 MS. SPIELBERG: And the letter itself --

7 MS. ROBESON: I don't see a date.

8 MS. SPIELBERG: Then maybe it's a different  
9 document.

10 MS. ROBESON: I don't see a date on the letter.  
11 It is from Kathleen Samiy. It says sent via fax 5/16/2011,  
12 hard copies via postal mail.

13 MS. SPIELBERG: Okay. Then maybe it is a  
14 different document. So I guess I, then I do need to get  
15 this entered as an exhibit. She referred in her testimony  
16 to a letter that had been sent to EYA on July 22nd, 2010,  
17 the summer before, expressing the position.

18 MS. ROBESON: Oh, I see that.

19 MS. SPIELBERG: That's it? Is that it?

20 MS. ROBESON: Yes. It says Seven Oaks-Evanswood  
21 Citizen Association letter to EYA Associates in opposition  
22 to re-zoning, July 22nd, 2010.

23 MS. SPIELBERG: I think that's it. So it's  
24 already in the record.

25 MS. ROBESON: Yes.

1 MS. SPIELBERG: Okay. So then I guess --

2 MS. ROBESON: If you want to come and look, you  
3 can --

4 MS. SPIELBERG: That would be great.

5 MS. ROBESON: -- you can double-check.

6 MS. SPIELBERG: It's attached. Yes. It is  
7 attached as part of this.

8 MS. ROBESON: Okay.

9 MS. SPIELBERG: Okay. Thank you.

10 MR. HARRIS: So what exhibit number is that?

11 MS. ROBESON: It is 130, it's an attachment for  
12 135.

13 MR. HARRIS: Okay.

14 MS. SPIELBERG: It's part of 135.

15 MR. HARRIS: Okay.

16 MS. SPIELBERG: And I just had one other  
17 preliminary matter. We indicated at the last hearing that  
18 there were two witnesses who would be testifying. It turns  
19 out one of those people is away and she was, she had  
20 indicated to me that she submitted by fax submission, you  
21 know, with signed submissions that she couldn't be here and  
22 I don't see it listed, and that's from Jean Cavanaugh. So I  
23 don't know if that hasn't come in or if it --

24 MS. ROBESON: I have two exhibits that came in  
25 this morning. One is from Joan Bissell. Have you had a

1 chance to see these, Mr. Harris?

2 MR. HARRIS: I did not see that, no, ma'am.

3 MS. ROBESON: They're not marked yet but you're  
4 welcome to see them. There's one. And then I have one from  
5 it looks like Donalda Barnes, 711 Woodside Parkway.

6 MS. SPIELBERG: This would have been something  
7 from Jean Cavanaugh. I guess --

8 MS. ROBESON: Okay. So you don't see it on the  
9 exhibit list?

10 MS. SPIELBERG: I don't see it, no.

11 MS. ROBESON: Well, let me do this. They're still  
12 pulling together all the stuff that came in over Friday  
13 night and over the weekend so when, assuming -- well, I'm  
14 sure we'll go to lunch. I will double-check at lunch and  
15 see if there's a letter from Jean Cavanaugh. If not, the  
16 record's going to be open because we have, we're going to  
17 have Technical Staff review a revised layout, so she can  
18 still submit it as long as it's signed but I'll double-check  
19 because they're still pulling together things that came in  
20 over the weekend.

21 MS. SPIELBERG: Okay. Thank you.

22 MS. ROBESON: Okay? So that would be Jean, the  
23 Jean Cavanaugh exhibit. Anything from you, Mr. Harris?

24 MR. HARRIS: No. I do not believe so. No, thank  
25 you.



1                   MS. ROBESON: Okay. I did speak briefly with  
2   Technical Staff about the time it's going to take to review  
3   any revised plans, all right? They said apparently, you've  
4   submitted a sketch so to speak of the single access  
5   proposal, the cul-de-sac proposal?

6                   MR. HARRIS: Yes. That we plan to -- that was  
7   what we were talking about showing today.

8                   MS. ROBESON: Okay. If -- they said we have  
9   another date for hearings. They cannot -- in July.  
10   Otherwise, I have to go to September because I have to give,  
11   I have to get -- they can have their recommendation, at  
12   least on a concept basis, by Friday they think but then I  
13   need time to permit the citizens the ability to respond to  
14   their recommendation. So we can do, we can do a couple of  
15   things. We can convene a hearing on Friday because I still  
16   have that date open. You're lucky we've had several  
17   cancellations this month.

18                  MR. BROWN: Unfortunately, I'm out of town on  
19   Friday.

20                  MS. ROBESON: You are out of town. Then the best  
21   I can do is see if we have any other dates beyond that, but  
22   Technical Staff said they really can't get the troops  
23   together to take a review of the revised concept until  
24   Friday. So I will, during a break, I will check for, see if  
25   we have any other dates that we can set. The other option

1 would be if you would prefer to submit any response in  
2 writing.

3 MR. HARRIS: Madam Examiner, let me try something  
4 here. Like others, I'm concerned about a delay, too much of  
5 a delay, and I appreciate the time you've made available to  
6 find dates and that sort of thing. Personally, I have a  
7 question as to why we would need another hearing date. This  
8 is a schematic development plan. It's not a development  
9 plan. The access points on it are not binding. They are  
10 illustrative only. In fact, the whole STP is just an  
11 optional illustrative development other than the binding  
12 elements.

13 And so the Planning Board has the right to change  
14 the access points at the time of preliminary plan anyway and  
15 in fact, is charged with the obligation of deciding on  
16 access at that point in time within the parameters of  
17 anything that is a binding element. They can't violate a  
18 binding element, but there are no binding elements with  
19 respect to access and so it really is a post-zoning decision  
20 it seems to me. In fact, the Planning Board implied already  
21 that they feel it's a post-zoning decision. They heard the  
22 comments from the HPC staff about the specific location of  
23 the secondary access to Pershing and still recommended  
24 approval of the re-zoning and in fact, they were the ones  
25 who recommended deleting the binding element as to no access

1 on Springvale because they wanted to have the flexibility to  
2 decide where those access points should be.

3 The main access point on Ellsworth, there is no  
4 debate about that. That is, has been shown on the  
5 illustrative plan. In fact, it's been shown by the  
6 opposition as an access point and no one has questioned it.

7 The only question is whether the secondary access point  
8 onto Pershing would be there, would be moved somewhat or  
9 would be somewhere else and again, all of that is a post-  
10 zoning decision it seems to me.

11 MS. ROBESON: Well, I think -- let me stop you for  
12 a second. I think we've had this argument before. I'll let  
13 Mr. Brown respond but I looked back at other RT zoning cases  
14 where basic, basic things, well, not even as significant as  
15 access were changed after the Planning Board hearing and at  
16 a minimum, I don't want to send it to the District, the  
17 County Council without some review or recommendation by  
18 Technical Staff because they did not look at this option.  
19 And if I give Technical Staff the right to review it, then I  
20 have to give Mr. Brown and those opposing the right to  
21 respond.

22 I know, I know it's illustrative. The other cases  
23 were illustrative as well. They weren't changes in the  
24 binding elements, and I guess Mr. Brown put it well that  
25 part of this is knowing we have some feasible alternative.

1 And I know you're going to say well, we have testimony today  
2 that there are feasible alternatives and I'm going to tell  
3 you again that the Technical Staff hasn't reviewed those  
4 feasible alternatives. I know they're feasible in your  
5 opinion but I'm not going to send it to the Council without  
6 some Technical Staff review.

7 MR. HARRIS: The problem I have is that the  
8 Technical Staff is not binding anyway. They're not even the  
9 Planning Board and the, it's, the risk is on us. If we get  
10 this property re-zoned and there is no practical access, we  
11 can't go forward so the access just doesn't have to be  
12 decided now. And it is a secondary access point. There is  
13 no debate about the primary.

14 MS. ROBESON: Well, what's your -- I guess then --  
15 well, let me have mister -- I don't understand your  
16 objection simply to having Technical Staff review.

17 MR. HARRIS: It's the delay that's the issue.

18 MS. ROBESON: It's the time. Timing.

19 MR. HARRIS: Yes. Right.

20 MS. ROBESON: It's the contract issue or whatever  
21 your deadline is.

22 MR. HARRIS: The school system. I mean, the  
23 school schedule but yes.

24 MS. ROBESON: I understand but I'm going to let  
25 Mr. Brown respond.

1 MR. HARRIS: Okay.

2 MR. BROWN: I, frankly, I cannot predict with any  
3 reliability today what I feel is going to be necessary  
4 procedurally after we hear from Technical Staff. It may be  
5 that it will be more than sufficient for us to file a  
6 written response but possibly, that written response would  
7 be a request that we have some kind of evidentiary hearing  
8 on the matter but I, I'm not saying that that is, that that  
9 is definitely going to be our request or not. Not today.

10 MS. ROBESON: Now, I have spoken with Technical  
11 Staff and they are not, just for the record, I did speak  
12 with Technical Staff and I'm not sure, I am not sure that,  
13 you know, either or one of the options will be acceptable to  
14 them so I just think it's important for the District  
15 Council, when reviewing this, to have that, the benefit of  
16 that analysis. What we can do is we can put on the  
17 testimony today. I'm going to refer it to Technical Staff.  
18 If Mr. Brown feels that he can respond to Technical Staff's  
19 recommendation in writing, and we can talk dates, have you  
20 seen the revised -- yes. So we can reserve the question and  
21 not have another hearing. That's also, but I have to give  
22 them some level to -- I'm going to send it to Technical  
23 Staff.

24 MR. HARRIS: Okay. Well, then perhaps we leave it  
25 like this. We are confident that the testimony we'll put on

1   today will flush out not one but multiple alternatives  
2   should they ever be necessary, and I'm confident that the  
3   staff will say at least one of them is necessary. I don't  
4   think we would have to pick which one anyway. The community  
5   is opposed to the project no matter what. It's not an  
6   access point issue. But let us put this on today. They can  
7   question our witnesses about those and Mr. Brown can  
8   certainly comment on them through his closing arguments, and  
9   then once we're finished today, decide where we are and the  
10  extent to which --

11           MS. ROBESON: That's fine.

12           MR. HARRIS: Yes. And then set a date if we have  
13  to.

14           MS. ROBESON: That's fine. All right. So --

15           MR. HARRIS: Thank you.

16           MS. ROBESON: We are on rebuttal. It is your --

17           MR. HARRIS: Oh, no. They had one other --

18           MS. SPIELBERG: We have one --

19           MR. HARRIS: -- opposition witness first.

20           MS. SPIELBERG: We have one witness.

21           MS. ROBESON: Oh, that. I'm sorry. I forgot.

22           MS. SPIELBERG: We just have one.

23           MS. ROBESON: Yes.

24           MS. SPIELBERG: One more witness.

25           MR. BROWN: Christine Morgan.

1 MS. ROBESON: Please raise your right hand.

2 (Witness sworn.)

3 DIRECT EXAMINATION

4 THE WITNESS: Good morning. My name is Christine  
5 Morgan. I live at 1008 Woodside Parkway in Silver Spring.  
6 As a concerned citizen, I have worked on zoning and land use  
7 issues concerning the Woodside Park neighborhood for many  
8 years. A letter from Brian Ditzler, the current president  
9 of the Woodside Park Civic Association, is already in the  
10 record stating our community's opposition to this project.  
11 That's Exhibit 97. I am here as an individual to speak in  
12 opposition to the proposed re-zoning.

13 I was a Woodside Park representative to the  
14 Citizen Advisory Group on the 2000 North and West Silver  
15 Spring Master Plan. I have looked back at my notes and  
16 considered my memory of my participation with the Advisory  
17 Group. As a resident of Woodside park rather than Seven  
18 Oaks-Evanswood, I have no specific memory of discussions  
19 concerning the Chelsea School site. I do, however, have  
20 materials and memory concerning designated property as  
21 suitable to apply for nonresident professional offices in  
22 the plan that bears on the proposed re-zoning here.

23 Because applications for such use were being  
24 sought for three houses on two of Woodside Park's bordering  
25 streets, Georgia Avenue and Colesville Road, I worked hard

1 to have the suitability designation removed from all 34 of  
2 the properties previously named in the 1978 plan and they  
3 initially were, not only in Woodside Park but also in Seven  
4 Oaks-Evanswood and in Woodside. Only later did nine  
5 properties, the nine properties on Cedar Street between  
6 Ellsworth and Pershing Drive reappear in the plan and  
7 suitable to apply for those special exceptions.

8 By revisiting that issue and concentrating only on  
9 the Cedar Street properties, the Planning Staff had the time  
10 and opportunity to determine what type of transitional use  
11 and how much of a buffer was needed to protect the  
12 neighborhood from the intense development pressures exerted  
13 by proximity to the CBD. They selected nonresident office  
14 special exceptions rather than townhouses as the appropriate  
15 use. At no point in the reevaluation process did any  
16 entity, Planning Staff, Planning Board or the County  
17 Council, suggest or propose that the entire block should be  
18 designated as transitional. The density of this project not  
19 only doesn't serve as a buffer from intense development, it  
20 is, in itself, increased development and it has the  
21 potential for increasing development pressures on the  
22 vulnerable two blocks directly across Pershing Drive.

23 I have been here for much of the proceedings and  
24 heard Mr. Harris mention the townhouses in Woodside Park  
25 many times. I did a little survey of our three townhouse



1 developments and three other townhouse projects in the  
2 Woodside neighborhood which also borders the Silver Spring  
3 Central Business District at Spring Street. Spring Street  
4 is another name for Cedar Street east of Colesville Road.  
5 Here are some of the ways these projects are the same. They  
6 are townhouse projects in R-60 neighborhoods and well, this  
7 project doesn't exist but giving the benefit of the doubt,  
8 EYA had said that they will provide landscaping.

9           Some of the ways the projects differ. All the  
10 existing developments are RT-12.5 rather than RT-15. All  
11 have a larger percentage of green area, a minimum of 50  
12 percent. The newest actually has 60 percent. Each dwelling  
13 unit has a private yard. Also, many have good-sized decks.  
14 All the projects have a smaller number of dwelling units  
15 from 10 to 32 except for two small projects, 10 and 13  
16 units, which have two sticks facing one another. The mass  
17 in the other projects is broken by varying the number of  
18 dwelling units per building and by setting the structures in  
19 a more pleasing arrangement at angles to each other rather  
20 than all lined up.

21           Finally, and perhaps most importantly, is the very  
22 different location of each of these projects. They all meet  
23 at least one of the criteria for re-zoning from R-60 to  
24 townhouses. Each serves as a transition or buffer between  
25 an R-60 neighborhood and either a major highway or a

1 commercial area. Three are on Georgia Avenue, one is on the  
2 corner of Georgia Avenue and Spring Street, another faces  
3 Spring Street, which is Woodside Park's border with the  
4 central business district as I mentioned before, and the  
5 last sits next to the commercial encroachment into Woodside  
6 Park on the north side of Spring Street which have been  
7 permitted by the actions of the Digs Council in the mid-  
8 1960s. It provides a direct and immediate buffer with  
9 properties zoned for commercial and office use.

10 All but one of the projects were already  
11 constructed with townhouses at the time of the 2000 master  
12 plan. The site of the final project, Woodside Court, was  
13 identified in the 2000 plan as an appropriate area for  
14 townhouse development. I have a few pictures of the project  
15 which will, which will illustrate some of these points,  
16 particularly, their transitional location. And I do have  
17 these on disc but in our little run-through today, they are  
18 not in the order in which they'll be shown. They're all  
19 there but it won't match up with the --

20 MS. ROBESON: Narrative.

21 THE WITNESS: Narrative. So I can try and -- does  
22 it matter if --

23 MR. HARRIS: No, no.

24 THE WITNESS: Okay. Let's see. Put in the low  
25 one.

1 MS. ROBESON: Do you have a hard copy of these?

2 THE WITNESS: I do not. I can --

3 MS. ROBESON: We're going to have to confiscate

4 your disc.

5 THE WITNESS: No, you can, you can -- I have discs

6 for everybody.

7 MS. ROBESON: Oh, okay.

8 THE WITNESS: But it's in the wrong, it's in a

9 random order.

10 MS. ROBESON: That's fine. That's fine. I just

11 need it in the record.

12 THE WITNESS: They downloaded randomly.

13 MS. ROBESON: All right. Go ahead.

14 THE WITNESS: I don't know what that black mark in

15 the middle of the --

16 MS. VOLK: Oh.

17 (Discussion off the record.)

18 MS. ROBESON: While she's doing that, do you have

19 any followup questions?

20 MR. BROWN: I do. I do.

21 MS. ROBESON: Okay. Do you need us to see the

22 pictures first?

23 MR. BROWN: No, no.

24 MS. ROBESON: Why don't you ask the followup

25 questions while she's getting the, the electronic stuff

1     worked out.

2                     BY MR. BROWN:

3             Q     Ms. Morgan, have you read the recommendation from  
4     the Planning Board on this case?

5             A     No, I have not.

6             Q     I'd like you to take a look at the first paragraph  
7     on the top of page 3.  Would you read it over, please, and I  
8     want to ask you a question about it.  The gist of this  
9     paragraph, as I understand it is that the Planning Board  
10    agreed with the -- first of all, the staff member who was  
11    the primary author of the master plan was whom?

12            A     Sandra Youla.

13            Q     Do you recall the name Nancy Sturgeon?

14            A     Nancy Sturgeon, yes.

15            Q     The gist of this is that Nancy's recollection was  
16    that an inquiry about townhouses along one segment of  
17    Georgia Avenue was, the language in response to that was not  
18    intended for broader application.  Did you have a similar  
19    understanding at the time you worked on the plan?

20                   MR. HARRIS:  Objection.  I disagree with the  
21    premise of the question.  I think you can ask her what her  
22    understanding was but I don't think that's a correct  
23    representation of Ms. Sturgeon's comments.

24                   MS. ROBESON:  Well, he's reading what the Planning  
25    Board said.

1                   MR. HARRIS: No. He put -- he said, and Nancy  
2 Sturgeon isn't mentioned in here, the name, and I mean, I  
3 have no problem with him asking a question based on what's  
4 written here but that's not what his question was.

5                   MS. ROBESON: Okay. Then can you rephrase?

6                   BY MR. BROWN:

7           Q       Read the last sentence and tell me if you agree  
8 with that understanding.

9           A       Well, I do not have a recollection on that.

10          Q       Let me ask you if you have a recollection on this.

11        Would you look at -- this is the final version of the  
12 master plan, and I want you to look at pages 2 and 3 of  
13 Appendix F.       A       Any particular --

14          Q       Well, my question for you is when you were working  
15 on the master plan and working with the staff draft of the  
16 master plan, was the language that appears at the bottom of  
17 page 2 in underlined form and the language on page 3 in  
18 underlined form in the staff draft?

19          A       Well, I think the underlining indicates that it  
20 has been added so it would not have been in the staff draft.  
21 I think the language you showed earlier that's in, in here  
22 talking about where townhouse development should be placed  
23 is ambiguous. I don't, I personally did not read it but I  
24 was reading this later, not at the time, strictly as for the  
25 Georgia Avenue properties, especially when they talk about

1    where townhouse development should take place on busy  
2    streets and next to commercial areas so it seemed to me that  
3    it would apply in a more general --

4           Q     I just want to be clear.  If you go back to page  
5    22 or wherever it is in this version, this final version,  
6    the language that's underlined is in fact in this document,  
7    isn't it?

8           A     Yes.

9           Q     And the staff draft that you were working with did  
10   not have that language in it, correct?

11          A     No.

12          Q     We don't have that staff draft in the record but  
13   you understand that you were looking at a different  
14   document.

15          A     Correct.

16          Q     Thank you.

17               MR. BROWN:  I have nothing further.

18               MS. ROBESON:  Okay.  We'll give you an opportunity  
19   after cross-examination because we haven't seen the  
20   pictures.  Do you want to go ahead and -- now, I'm going to  
21   just, I'm going to virtually mark these as -- 205 is the  
22   Seven Oaks bylaws, is the SOECA bylaws, and then this will  
23   be 206.  Okay.  CD pictures of what in general?

24               THE WITNESS:  Townhouse developments.

25               MS. ROBESON:  Okay.  Silver Spring townhouse

1 developments. All right. So this will be 206.

2 (Exhibit No. 206 was marked for  
3 identification.)

4 THE WITNESS: In 1982, Fairview Court, a two  
5 structure, 13-unit townhouse project, was built in Woodside  
6 Park. This photo shows the drive to the communal private  
7 parking area in the back. The townhouses with private  
8 backyards are to the left and the side of a commercial  
9 office building is on the right. In addition to the  
10 buildings, there is a private paved parking lot behind the  
11 townhouses which service other office buildings along Spring  
12 Street. So they have commercial on, the townhouses have  
13 commercial on two sides. Commercial re-zoning on the north  
14 side of Spring Street, which resulted in these office  
15 buildings and occurred in the mid-'60s under the Diggs  
16 Council, has since been rescinded but the damage remains.

17 Next photo. This is looking south towards Spring  
18 Street and the Silver Spring Central Business District.  
19 Spring Street is the same as Cedar ,as I mentioned before.  
20 These are the office buildings next to the Fairview Court  
21 townhouses.

22 Next. These are the first Woodside Park  
23 townhouses, first townhouses built in Woodside Park, 10  
24 dwelling units in two structures built in 1972 by the Poland  
25 family who developed two blocks of single family homes in

1 Woodside Park. The townhouses in this photo face Spring  
2 Street, next photo, and look directly at the Park and  
3 Planning parking lot, a County parking garage beyond and a  
4 high-rise apartment building. In other words, the Silver  
5 Spring Central Business District.

6           Next. Woodside Station is a 32-unit development  
7 built in 1988 on a block bordered by Spring Street, Georgia  
8 Avenue, Ballard Street and Woodland Drive. Over the years  
9 prior to this development, this had been a very problematic  
10 property. A heavily wooded lot, various owners tried to get  
11 the zoning changed to accommodate office buildings, office  
12 townhouses, an apartment, hotel, the Silver Spring Post  
13 Office and a mortuary. After it was sold, the developer and  
14 Woodside Park Civic Association came to an agreement about  
15 placement of the houses, driveways, parking areas and the  
16 preservation of trees. This photo shows some of the 10  
17 units in two structures of six and four dwelling units each  
18 facing on Woodland which is compatible to how the single-  
19 family homes in Woodside Park are sited, front doors to the  
20 street.

21           Next. This is taken from the southwest corner of  
22 Spring and Georgia looking northeast at the Woodside Station  
23 townhouse development, and it shows the mandated green  
24 buffer with many original trees. Not in the photo but to  
25 the right is the Park and Planning building on the corner of



1 Spring and Georgia.

2               Next. Oh, tiny. This is the Park and Planning  
3 building on Spring Street as seen from Woodside Station.

4               Next. This is looking back from the northeast  
5 corner of Spring and Georgia standing on the Woodside  
6 Station side of the street and looking into the Silver  
7 Spring Central Business District.

8               Those are all the townhouses in Woodside Park.  
9 I'm less familiar with the next three groups which are all  
10 along the west side of Georgia Avenue across from Woodside  
11 Park.

12              Next. These are part of a 10-unit townhouse  
13 community on Georgia Avenue and Grace Church Road showing  
14 its direct placement on Georgia Avenue.

15              Next. This is part of a 23-unit project at  
16 Georgia Avenue and Highland Drive. I think it was built in  
17 the mid-1980s, or of the early 1980s. What I like about  
18 this one is how the mass has been broken down in a very  
19 pleasant way. The buildings don't have the same number of  
20 units in each of them and they're set at angles to one  
21 another. This is not the whole project. It's divided into  
22 two similar but not carbon copy courtyards.

23              Next. This is the latest development, Woodside  
24 Court, at Georgia and Noyes. This is the area mentioned in  
25 the 2000 master plan as suitable for townhouses. It has 60

1   percent greenspace but still lots of asphalt. The house to  
2   the left is original to the property. The use of materials  
3   in the new construction blends with the original.

4               Next. This is Woodside Court on Georgia. The  
5   tree in the center was saved by a binding element composed  
6   by the community and Planning Staff.

7               Next. Oh, is there any way to enlarge that?

8               MS. VOLK: No. Unfortunately.

9               THE WITNESS: Well, maybe on your own computer you  
10   can see. This is Cedar Street looking west from Pershing.  
11   The designated transition homes in Seven Oaks-Evanswood are  
12   on the right and the Silver Spring Central Business District  
13   is on the left.

14              Next.

15              MS. VOLK: Actually, sorry.

16              THE WITNESS: It's kind of blurry when you expand  
17   it but okay. Looking at the Chelsea project schematic, this  
18   appears to be an example of what the EYA plan proposes as  
19   backyards. Alleys for multiple garage access with balconies  
20   overhanging the parking pads and second cars. You may not  
21   be able to reach across the asphalt to your neighbor but no  
22   outdoor privacy is afforded in this configuration. And  
23   instead of another stick of townhouses at the end of the  
24   road, one will see the single-family residences of Seven  
25   Oaks-Evanswood. That's it.

1 MS. ROBESON: Okay. Thank you. Do you have  
2 anymore followup questions or --

3 MR. BROWN: Um.

4 MS. ROBESON: Well, we'll go to Mr. Harris and  
5 then you'll have an opportunity for redirect. Mr. Harris?

6 MR. HARRIS: Yes. Thank you.

7 CROSS-EXAMINATION

8 BY MR. HARRIS: Q Thank you, Ms. Morgan. Some  
9 of these cases were re-zonings to RT zone I think you  
10 testified to?

11 A Yes.

12 Q And the County Council, District Council would  
13 have found each of them to be compatible with the  
14 neighborhood in order to approve that zoning, right?

15 A I assume so. I do not have the particulars on me.

16 Q Sure. If that turned out to be one of the  
17 standards then presumably, they did make that finding.

18 A Right. Two of these other earlier plans were in  
19 the '78 master plan as well.

20 Q Not all of them were recommended in the master  
21 plan though, were they?

22 A No. They were.

23 Q All of those townhouse --

24 A Well, not all the -- I have no idea.

25 Q Okay.

1           A     I only know what's --

2           Q     As built though, they are compatible with the  
3 communities, aren't they?

4           A     Well, they are what they are. Some more than  
5 others.

6           Q     Design can, you know, and landscaping are  
7 components of compatibility.

8           A     Design and size of the project, height, mass,  
9 siding.

10          Q     And have you been to the EYA project at National  
11 Park Seminary?

12          A     I have not.

13          Q     You have not.

14          A     No. But I don't believe it's an RT. It's a  
15 different kind of zoning to my understanding.

16          Q     It is a different kind of zoning but there are  
17 townhouses there close to single-families, aren't there?

18          A     I have not been there.

19          Q     Okay. There are townhouse projects throughout  
20 Montgomery County that are in close proximity to single-  
21 family homes, aren't there?

22          A     I don't know.

23               MR. HARRIS: I have no further questions.

24                       REDIRECT EXAMINATION

25               BY MR. BROWN:

1           Q     Ms. Morgan, you said that the Woodside Park  
2 townhouses, the 10 units, were built in 1972 by the Pollin  
3 family. Pollin (phonetic sp.) family.

4           A     The Poland family.

5           Q     The first master plan in that area was in 1978, is  
6 that right?

7           A     I do not know. I mean, it's the first master plan  
8 that I'm familiar with. It's the only one that I have in my  
9 records.

10          Q     All right. So these townhouses were there when --

11          A     They would precede.

12          Q     -- that master plan --

13          A     They would precede the master plan, that master  
14 plan.

15          Q     Thank you. I have nothing else.

16                MS. ROBESON: Thank you. All right. Now Mr.  
17 Harris.

18                MR. HARRIS: Now. Oh, I think Mr. Iraola is  
19 coming back.

20                MS. ROBESON: You're still under oath, Mr. Iraola.  
21 (Witness previously sworn.)

22                               DIRECT EXAMINATION

23                BY MR. HARRIS:

24          Q     Mr. Iraola, first of all, would you, there's been  
25 a lot of discussion about the main requirements that have

1 to, the main findings for a RT re-zoning. Would you state  
2 in your mind what you believe the requirements are?

3 A I believe there are four main elements in this  
4 case regarding that. One is satisfaction of at least one of  
5 the three criteria of RT purpose clause. The second being  
6 master plan recommendations and how the proposed plan is  
7 consistent with it. Third being concerns of future  
8 encroachment, certainly, into the SOECA neighborhood and the  
9 precedent or domino effect. And fourth, compatibility and  
10 the impact on the proposal on adjacent residential  
11 neighborhoods in particular.

12 Q Go ahead.

13 A Sure. There are also a number of other issues  
14 that were raised certainly related to the above that I would  
15 like to respond to as well. Let me begin by addressing some  
16 specific issues I heard raised during the testimony and I  
17 will then reiterate our position on the four main elements  
18 of the case.

19 Q Because we've just been talking about  
20 compatibility and that issue has come up repeatedly, would  
21 you first begin by telling us your opinion as far as  
22 compatibility of this project?

23 A Sure. I'll start by general compatibility. I'll  
24 get into specifics a little bit later. But in terms of the  
25 general compatibility of the Chelsea Courts townhomes with

1 the residential neighborhood, the proposed townhomes are the  
2 same fee-simple one-family residential use as the existing  
3 single-family detached homes in the SOECA neighborhood.  
4 Townhomes are not apartments or any other multi-family use  
5 as defined in the Zoning Ordinance. Townhouses are a  
6 permitted use in all of the one-family zones, including R-60  
7 under the MPDU cluster method of development.

8           Townhomes exist in harmony within single-family  
9 detached neighborhoods throughout the County and within the  
10 north and west Silver Spring area. In new urbanist  
11 communities, they are based on, strictly on traditional  
12 neighborhood design principles. Townhomes are fully  
13 integrated within neighborhood blocks. Townhome dwellers  
14 coexist peacefully with their single-family detached  
15 neighbors. They also raise families, garden and shovel snow  
16 as well.

17           The County has many noteworthy communities that  
18 mix townhomes and single-family detached homes to form  
19 livable, cohesive and desirable places to live. King Farm,  
20 Kentlands, the Crown Farm and the Clarksburg Town Center are  
21 examples of such communities in Montgomery County that use  
22 design principles which are based on traditional  
23 neighborhood design. Townhomes are also located within  
24 neighborhoods surrounding the Silver Spring CBD. I'd also  
25 like to introduce an exhibit. It's entitled "Chestnut

1 Avenue - Rosedale Park G-797" to stress this point as well.

2 MS. ROBESON: So that will be 207. What was the  
3 "G" number? I'm sorry.

4 THE WITNESS: G, G-797.

5 MS. ROBESON: And can you mark it 207?

6 THE WITNESS: Sure.

7 MS. ROBESON: Thank you.

8 (Exhibit No. 207 was marked for  
9 identification.)

10 THE WITNESS: I think what this exhibit shows is  
11 kind of a harmonious relationship between townhomes and  
12 single-family detached in really a CBD. It's located right  
13 near the Bethesda CBD on, off of Wisconsin Avenue and  
14 Rosedale Avenue and Chestnut. What I've circled here in  
15 yellow essentially are the townhomes which are an RT zone.  
16 The images on the bottom kind of shows the streetscape  
17 looking eastward along Chestnut approximately in front of  
18 where the yellow markings have been, have been placed.

19 But you can see in the image that there are  
20 single-family R-60 homes immediately across the street from,  
21 from brand new townhomes and certainly in the image above,  
22 you can see that they are adjacent to them as well. This is  
23 within the CBD and it's zoned CBD, and it's a mixed-use  
24 development which includes residential, office and retail on  
25 the ground floor.



1 BY MR. HARRIS:

2 Q Before you get into other examples of  
3 compatibility, it might be useful to talk about the  
4 surrounding area --

5 A Sure.

6 Q -- because we've had some discussion about that as  
7 well.

8 MS. ROBESON: Is this in the record already?

9 THE WITNESS: No.

10 MR. HARRIS: This exhibit, no, ma'am.

11 MS. ROBESON: Okay. So this would be 208, and  
12 it's called adjusted surrounding area.

13 THE WITNESS: That's correct.

14 (Exhibit No. 208 was marked for  
15 identification.)

16 MS. ROBESON: Mr. Brown, pipe up if you have an  
17 objection. You don't have to have an objection. I'm just  
18 saying I'm not specifically asking you.

19 MR. BROWN: I just want to take a look. Well,  
20 subject to hearing about the pedestrian shed, I have no  
21 objections.

22 MS. ROBESON: Okay.

23 BY MR. HARRIS:

24 Q Go ahead and resume then, Mr. Iraola.

25 MS. ROBESON: Be prepared for questions on the

1 pedestrian shed.

2 MR. HARRIS: Yes.

3 THE WITNESS: Absolutely.

4 MS. ROBESON: All right.

5 THE WITNESS: In a floating zone application, the  
6 surrounding area boundary is less rigidly defined than in a  
7 piecemeal re-zoning. In general, the defined surrounding  
8 area takes into account those areas most directly affected  
9 by the proposed development. The surrounding area boundary  
10 should radiate from the subject property to include all  
11 potentially affected properties and is not limited to one-  
12 family detached neighborhoods.

13 In the Planning Board transmittal letter, which is  
14 Exhibit 103, the Board noted that the surrounding area of  
15 the boundary is acceptable. However, they also noted that  
16 the scope could be narrowed at the northern boundary along  
17 Dale Drive and at the southern boundary which was at Georgia  
18 Avenue. We agree with this revision. We do not agree with  
19 the position of Mr. Doggett that the boundary should be  
20 defined as three blocks north of Springvale Road, Colesville  
21 Road to the west, Wayne Avenue to the east and Cedar Street  
22 to the south. While the first three boundaries essentially  
23 are acceptable, we do not agree that the surrounding area,  
24 for zoning purposes, ends at Cedar Street.

25 The subject block is adjacent to the CBD and was

1 recommended in the master plan for transitional and  
2 institutional uses. It affects and is affected by the uses  
3 of the adjacent CBD properties. Surrounding area  
4 delineation is based on impact of the zoning on a geographic  
5 area. It is not dictated by the zoning of surrounding  
6 properties or civic association boundaries. For this  
7 reason, the surrounding area should include properties in  
8 the block between the subject property and Fenton Street.

9 With regards to this exhibit, I think this exhibit  
10 further --

11 MS. ROBESON: Can I stop you for a second? The  
12 lower boundary, is that, I can't see it from here, is that  
13 Fenton Street?

14 THE WITNESS: Yes.

15 BY MR. HARRIS:

16 Q Yes. Explain all the boundaries.

17 A What's shown in yellow essentially is the red  
18 boundary that was on the original surrounding --

19 MS. ROBESON: I understand.

20 THE WITNESS: -- area, area boundary. That would  
21 be Georgia Avenue. This is Fenton Street right here.

22 MS. ROBESON: Okay. I understand.

23 THE WITNESS: Dale Drive to the north, Wayne on  
24 the east side and then Colesville on the south. This  
25 exhibit further illustrates the adjustments to the

1 surrounding area boundary and giving the rationale for that  
2 as well. Using the highly regarded standard of a five  
3 minute walk catchment or a quarter mile walking distance to  
4 define a neighborhood, I prepared this analysis.

5           The green dashed line that radiates from the  
6 center of the property indicates the quarter mile distance  
7 measured from the center of the property. So essentially,  
8 as the crow flies from the center of the property, shown  
9 here in yellow, a quarter mile or about a little over 1300  
10 feet shows that radius point. The purple lines represent  
11 the actual walking path measured along the center line of  
12 streets and drives measured from all four property corners.  
13 So those would be the darker purple lines. The measuring  
14 points are the small little green areas at each property  
15 corner so it's a little bit more precise. So from each one  
16 of those property corners, a quarter mile distance in all  
17 different directions kind of indicates the limit of the five  
18 minute walking distance as people walk on sidewalks or  
19 drives.

20           So the resulting pedestrian catchment or  
21 pedestrian shed is shown shaded in purple. This represents  
22 a more accurate depiction of walking distances from the,  
23 from the subject property into the surrounding area. The  
24 resulting dashed red line represents an adjusted surrounding  
25 area boundary defined by Fenton Street to the south,

1 Colesville Road to the west, Woodside Parkway along the  
2 north, Dartmouth Avenue along the northeast and Wayne Avenue  
3 along the east.

4 BY MR. HARRIS:

5 Q Go ahead.

6 A Essentially, this is Fenton Street to the south,  
7 Colesville on the west side. The northern boundary would be  
8 Woodside Parkway, Dartmouth Avenue, which is this small  
9 little side street, would be on the northeast and then Wayne  
10 Avenue essentially on the, on the east side.

11 Q And does that correspond with the direction in  
12 which the Planning Board was focused?

13 A I believe it does. This is, I think, where they  
14 were getting at with regards to delineation of the  
15 surrounding area.

16 Q Okay.

17 A Okay. Other RT zonings have included CBDs and  
18 non-CBD areas within the designated surrounding area  
19 boundaries. Example of cases where the surrounding area  
20 boundary included both CBD land and non-CBD land are  
21 Fairview Courts, which is Case F-892, included part of the  
22 Silver Spring CBD; Kensington Heights, Case No. G-879,  
23 included part of the Wheaton CBD; Rosedale Park, the project  
24 I just mentioned which is Case G-797, included part of the  
25 Bethesda CBD; Georgia Avenue and Spring Street, Case No. G-

1 339, included part of the Silver Spring CBD; and the Good  
2 Counsel site, Case No. G-879, included part of the Wheaton  
3 CBD.

4 Q There's been a lot of talk about the extent to  
5 which a master plan recommendation is required in the RT  
6 zone, and would you clarify your opinion on that  
7 requirement?

8 A Sure. Despite some of the opposition comments, a  
9 master plan recommendation is not required for approval of  
10 an RT application. The intent and purpose of the RT zone  
11 allows the Council to approve the RT zone if any one of  
12 three specific criteria is satisfied in the Zoning  
13 Ordinance. The criteria includes master plan designation,  
14 appropriateness or the need for a buffer transition. I  
15 testified extensively that the proposal certainly meets the  
16 appropriate buffer or transition requirement. I will  
17 further review on how that would occur in later remarks.

18 Q Before you do that, there was some testimony about  
19 the Good Counsel site and a possible Safeway store proposal  
20 there. I believe it was from Mr. Humphrey.

21 A Yes.

22 Q Would you explain a little bit more about the Good  
23 Counsel property and that re-zoning?

24 A One of the examples that I spoke about where the  
25 master plan did not recommend RT zoning but the RT-15 zone

1 was approved by meeting the other criteria was the former  
2 Good Counsel High School site, Case No. G-798. The site is  
3 located outside the Wheaton CBD and was never the subject of  
4 re-zoning requiring an expansion of the CBD boundary as Mr.  
5 Humphrey said, alluded to. A Safeway grocery store was not  
6 part of the Good Counsel development plan. Safeway  
7 considered another site just south of the Good Counsel  
8 property at the corner of Blueridge Avenue and Georgia  
9 Avenue as part of the Avalon Bay proposal.

10 As I testified previously, the Chelsea Courts site  
11 is superior in terms of its location near the CBD and  
12 accessibility to Metro. The Good Counsel RT-15 plan was  
13 approved for a density of 13.7 units per acre. The Chelsea  
14 Courts plan is slightly higher at 14.67 units per acre but  
15 given its location closer to the CBD and better  
16 accessibility to a Metro station in terms of walking,  
17 walking distance and really, the pleasantness of the walk,  
18 the density is more than justified in this regard.

19 The proposed Chelsea Courts project serves as an  
20 excellent transition from a higher density and intensity  
21 uses to the south of the site on both sides of Cedar and the  
22 single, between that and the single-family homes in the  
23 balance of the neighborhood. The proposed scale, bulk and  
24 density are compatible with the neighborhood, therefore  
25 appropriate at this location.

1           Q     There was also testimony about the demand and  
2     supply for townhouses in the Silver Spring area including  
3     recitation of a number of different development projects  
4     around Silver Spring. Can you address those projects and  
5     the extent to which they address the townhouse demand?

6           A     Sure. Of all the pending residential development  
7     in the Silver Spring CBD cited by the opposition, none  
8     includes townhomes. The 8711 Georgia Avenue project was  
9     recently amended from an office building to 160-unit multi-  
10    family building. My firm worked on that project. The Blair  
11    Towns, although called towns, are actually 78 units of  
12    multi-family housing in two apartment buildings plus a  
13    structured parking garage as part of the Blair townhouse or  
14    apartment complex.

15                Other than Cameron Hill, I know of no fee simple  
16    residential townhomes in downtown Silver Spring. There are  
17    some along the edges outside the CBD such as the northeast  
18    corner of Spring Street and Georgia Avenue across from Park  
19    and Planning headquarters, the 13 townhomes along Fairview  
20    Road and the Woodside Courts project. Compared with other  
21    areas of the County, there are relatively few townhome units  
22    in the north and west Silver Spring area as a whole. There  
23    are very few suitable sites available.

24                I'd like to introduce another exhibit which is  
25    townhouses in the north and west Silver Spring area.



1 MS. ROBESON: And that would be 209.

2 (Exhibit No. 209 was marked for  
3 identification.)

4 THE WITNESS: This exhibit illustrates nine other  
5 places where townhomes have been approved and fully  
6 integrated into the existing neighborhoods. Some of these  
7 have been mentioned in the previous testimony but I'll just  
8 go over them real quick.

9 No. 1 that's labeled, Fairview Court which I think  
10 we already talked about just outside the CBD. No. 2 is  
11 Georgia Avenue at Spring Street right across from the Park  
12 and Planning headquarters. Laytonsville Road, which is in  
13 the, I believe it's in the west Silver Spring area, is  
14 labeled no. 3. No. 4 is Georgia Avenue at Noyes Drive,  
15 otherwise known as Woodside Court.

16 In the middle is Georgia Avenue at Locust Grove  
17 Road which is just, just inside the Beltway off of Georgia  
18 Avenue near, in the Montgomery Hills area. Then there's  
19 Leighton Wood Lane which is off of 16th Street and 2nd  
20 Avenue which is no. 6. No. 7 is Georgia Avenue and Grace  
21 Church Court which is just south of the spur where 16th  
22 Street meets Georgia Avenue. And No. 8 is Georgia Avenue at  
23 Ottawa Place. This is immediately north of the Woodside  
24 Courts project. And there's one also in the west Silver  
25 Spring area which is Main Avenue and Michigan, Michigan

1 Avenue as well.

2               Sound and logical land use planning practices  
3 argue for a variety of residential unit types to meet a  
4 diverse market and certainly, changing lifestyles. Silver  
5 Spring would be well-served by additional townhomes to add  
6 to the unit diversity. The housing element does not mandate  
7 any particular RT zoning density for a particular site. The  
8 Chelsea Courts proposal, because of its location adjacent to  
9 the CBD and proximity to Metro, is probably the most  
10 appropriate site for RT-15 zoning density that I have ever  
11 seen.

12               BY MR. HARRIS:

13           Q     There was testimony, extensive testimony, about  
14 developing the Chelsea property under the existing R-60  
15 zoning and using, sometimes it was referred to as the  
16 cluster method, other times the MPDU optional method. Can  
17 you explain to us the density that theoretically is possible  
18 there?

19           A     Sure. The opposition testimony and Mr. Brown's  
20 assertion that 39 units could be built is based on an  
21 incorrect reading and interpretation of the Zoning  
22 Ordinance. MPDU density is not added to the base density  
23 but it's included within the density in Section 59-C-1.62  
24 development standards. Therefore, the maximum density under  
25 the R-60 MPDU cluster form of development would be 32 units,

1 not 39 as Mr. Brown had asserted.

2           Although the Zoning Ordinance permits 32 units to  
3 be built under the R-16 MPDU cluster form of development,  
4 Mr. Doggett testified that the plan he presented, which is  
5 Exhibit 187, has not been engineered or reviewed for  
6 compliance with the Zoning and Subdivision Ordinance  
7 standards. These requirements could result in even fewer  
8 than 32 units approved and in my professional opinion, given  
9 the location of the site and adjacency to the CBD and  
10 walking distances to Metro, would be a gross  
11 underutilization of this land resource.

12           Q     Irrespective of what density might come out of an  
13 R-60 MPDU cluster form of development, do you have an  
14 opinion as to how RT-15 zoning would relate to purposes and  
15 policies of the County?

16           A     The RT-15 enables 76 townhouse units rather than  
17 32, thus better meeting the County's overall housing demand  
18 and better serving the goals of more unit diversity in the  
19 Silver Spring area. Additionally, the density is in keeping  
20 with the housing element of the general plan by achieving as  
21 much transit-oriented residential as possible. The  
22 rationale for creating the RT zone was to make redevelopment  
23 viable in transit station areas in accordance with the  
24 Council Opinion for Ordinance No. 13-70 effective October  
25 13th, 1997, the creation of the RT zone.

1           The maximum density permitted in the RT-15 zone,  
2   using the 22 percent bonus density for providing 15 percent  
3   MPDUs, is 18.3 dwelling units per acre. On the subject  
4   property, this would yield 96 dwelling units. The applicant  
5   is proposing 77 units for Chelsea Courts for a density of  
6   14.67 dwelling units per acre so we're not fully utilizing  
7   the entire 18 that would be permitted as part of this, as a  
8   matter of writing in the Code.

9           While comparing, compared with the bulk and mass  
10   that could be built on the site using the R-60 MPDU cluster  
11   option, including along Springvale Road, the Chelsea Courts  
12   plan is superior. Under the R-60 MPDU cluster scenario, the  
13   Springvale Road frontage could be lined with either a row of  
14   townhouses fronting on Springvale for almost the entire  
15   length if townhouses were included, or it could be lined  
16   with large one-family detached units fronting onto  
17   Springvale Road. Setbacks from public streets would meet a  
18   minimum of 20 feet versus the 25.5 feet as proposed by the  
19   applicant. The maximum building height could be 40 feet  
20   versus 35 feet which is what is being proposed which is the  
21   maximum permitted under the RT-15 zone.

22           The minimum width for a one-family detached home,  
23   lot is only 25 feet and in theory, could allow approximately  
24   21 units along Springvale Road on 4,000 square foot lots  
25   with no side yards. Mr. Doggett's plan proposed 14 lots on

1 four-foot wide lot sizes. This results in a relentless and  
2 imposing street wall along Springvale. The proposed RT-15  
3 schematic development plan provides significantly more open  
4 space. The R-60 MPDU optional cluster scenario requires  
5 only 2,000 square feet per unit or in this case, would be  
6 1.47 acres assuming the 32 units. This equals to 28 percent  
7 of the gross tract area as a minimum.

8           The proposed Chelsea Courts green area is nearly  
9 doubled at 2.4 and is reflected in the schematic development  
10 plan. The R-60 MPDU cluster does not require any of the  
11 greenspace to be open to the public whereas the Chelsea  
12 Courts plan proposes 1.23 acres fully accessible to the  
13 public. The Chelsea Court plan includes no driveways along  
14 Springvale Road whereas, whereas Springvale could be lined  
15 with parking pads similar to Exhibit 187, Mr. Doggett's  
16 plan. Under either the townhouse or the non-townhouse  
17 options under the R-60 MPDU cluster, with 14 additional  
18 access points, there would be considerably more traffic and  
19 turning movements onto Springvale Road than under the  
20 proposed RT-15 schematic development plan.

21           The R-60 cluster option results in a, results in a  
22 large, in a wall of large one-family detached homes  
23 potentially twice as large as the homes confronting them.  
24 An example within the SOECA neighborhood is the south  
25 Woodside Park subdivision, also known as the Watts property

1 development, that yield an average home size of 3400 square  
2 feet as compared to the confronting homes with an average of  
3 1400 square feet, nearly 2,000 square feet bigger.

4 Q When comparing this RT project to the other cases  
5 that had been cited, I think you commented about your  
6 feelings as far as how this one is rated. Can you expand on  
7 that a little bit?

8 A Sure. The Chelsea Courts proposal is much closer  
9 to the CBD than the Good Counsel RT-15 case which is G-798.  
10 Also, much closer than the Plyers Mill RT-15 zoning, G, G-  
11 786, and the RT-15 case for the Kaz Brothers MCAD RT case  
12 which is G-858 or really, most any other RT zonings. As  
13 previously noted, there is a deficiency of townhomes in the  
14 Silver Spring area and a need, there is a need for more of  
15 them.

16 Unlike the other RT zones where the zoning hearing  
17 examiner's reports do not indicate complaints with respect  
18 to the existing institutional uses, there have been many  
19 complaints from the community about the institutional use on  
20 this site making its replacement beneficial. Again, the  
21 Walk Score analysis for Chelsea Courts here is superior to  
22 other RT sites in Silver Spring given the proximity to  
23 transit, schools, shopping and employment.

24 Q There was some testimony about, implying the need  
25 for frontage on a main road for RT zoning or for townhouses.

1 Can you address that point?

2 A Yes. The RT zone does not require frontage on, on  
3 a major road. Although this site does not front on a major  
4 road, it occupies the majority of an entire block directly  
5 adjoining the Silver Spring CBD. The site is accessed by  
6 numerous streets of all classifications including business  
7 district streets that link directly into the CBD such as  
8 Ellsworth. New townhomes are built in communities  
9 throughout the County where they front only on secondary  
10 residential or even tertiary residential streets or private  
11 roads. The access requirements for townhouses are no  
12 different than those for one-family detached units which  
13 also may front on secondary and tertiary residential streets  
14 and not major roads necessarily.

15 There are many examples of RT zoning cases in the  
16 North and West Silver Spring Master Plan area where the  
17 zoning was approved without frontage, including some without  
18 frontage on a major road. For example, the 13 townhomes on  
19 Fairview road north of Spring Street; the 27 townhomes on  
20 2nd Avenue and Leighton Wood Lane in Woodside, and that is  
21 no. 6 on the, on Exhibit 209; the 18 townhomes on  
22 Laytonsville Road in north Woodside which is --

23 Q No. 3.

24 A -- no. 3 on Exhibit 209; and there's others.

25 Q Okay. There was testimony about the Purple Line

1 Master Plan and its role in this zoning. Can you address  
2 that issue?

3 A The Purple Line Functional Plan, which is Exhibit  
4 160 in the record, is not a traditional land use master  
5 plan. The functional plans address county-wide systemic  
6 issues such as the Master Plan of Highways or the county-  
7 wide Bicycle Master Plan. As such, they cross multiple  
8 geographical areas or master plan boundaries and deal with  
9 the systems in a holistic way. Policies recommended by  
10 functional master plans amend the general plan but do not  
11 make recommendations for zoning or land use. This is  
12 clearly stated in the second paragraph on page 1 of the  
13 Purple Line Functional Plan.

14 The applicant is not basing this RT zoning on the  
15 future construction of the Purple Line but on the proximity  
16 of the site to the Silver Spring CBD. Also, its position as  
17 an appropriate buffer and transition, its proximity to  
18 Metro, its current institutional use and its general  
19 conformance to the North and West Silver Spring Master Plan.

20 Any implied development limits in the functional plan which  
21 are not binding are related to the station area at Dale  
22 Drive and Wayne Avenue. Chelsea Courts is not within that  
23 station area. Nothing in the Purple Line Functional Master  
24 Plan conflicts with this re-zoning.

25 Q All right. There has been a lot of testimony and



1 questions and comments about the historic setting for the  
2 Riggs-Thompson house and how that may or may not affect this  
3 plan. Can you address that issue as well?

4 A Right. To reiterate the master plan language, it  
5 establishes the environmental setting for the Riggs-Thompson  
6 house as 37,056 square feet. This is stated on page 29 of  
7 the plan. This is also stated on page 29 of the plan, also  
8 in the special exception opinion and also on the record  
9 plat.

10 To clarify, the Historic Preservation Staff's  
11 position is that the applicant will preserve the historic  
12 portions of the house. The Historic Preservation Staff did  
13 not oppose a road through the historic setting but only if  
14 it interfered with preserving the historic portions of the  
15 house. The Development Review Committee minutes, which is  
16 Exhibit 129, reflect no objection to the street bisecting  
17 the environmental setting. Additionally, I believe the  
18 applicant will be able to provide access in some  
19 configuration which will be heard at subdivision and site  
20 plan. The Board of Appeals approval for the special  
21 exception for the Chelsea School included the driveway  
22 within the environmental setting with HPC's Staff support.

23 There is precedent on other historic properties  
24 with roads or driveways through the designated environmental  
25 setting. I mentioned the access drive to the parking area

1 on the east side of Strathmore Hall in North Bethesda as one  
2 example. The Chelsea Courts proposal creates a better  
3 setting with the inclusion of a park space in the current  
4 non-historic buildings that now occupy part of the  
5 environmental setting. The Riggs-Thompson house will be  
6 restored back to its original use as a single-family home  
7 again. Options for the final placement of the private  
8 street exist even if ultimately, there is an Historic  
9 Preservation issue with respect to the road. I'd also like  
10 to introduce an exhibit which is Street A alignment options.

11 MS. ROBESON: So this will be 210.

12 THE WITNESS: 210?

13 MR. HARRIS: Yes.

14 (Exhibit No. 210 was marked for  
15 identification.)

16 THE WITNESS: There are many different scenarios  
17 for meeting certainly, the compatibility with regards to the  
18 street on Chelsea Courts. This is just six options and  
19 there's probably a multiple, multiple others that have been,  
20 that could be looked at. No. A is essentially what is on  
21 the schematic development plan, a street that connects from  
22 Ellsworth to Pershing. B is a variation of that. It's the  
23 cul-de-sac plan that essentially creates a cul-de-sac just  
24 before on Street A, on Private Street A just before you get  
25 to the environmental setting at the Riggs-Thompson house,

1 and that would be kind of the platted one that shows up with  
2 regards to the environmental setting.

3 C would be another variation of the schematic  
4 development plan which really doesn't change the overall  
5 concept of the plan in any other regards with the exception  
6 of, of the access point. Under this scenario, which is a  
7 little, it probably should be drawn a little differently,  
8 the street would essentially shift up about 20 feet or the  
9 length of a, of a townhome unit which essentially pushes the  
10 alignment a little bit further away and not as close to the,  
11 to the historic home so it would eliminate --

12 MS. ROBESON: What happens to your public access  
13 area under that plan?

14 THE WITNESS: This? You're talking about the  
15 greenspace?

16 MS. ROBESON: No. I'm -- well, I'm talking about  
17 the area that's going to be open for public access.

18 THE WITNESS: Right. It would be essentially  
19 bisected. You would have a smaller space here. The area  
20 would not change. Probably the amount of area would not  
21 change, it just would be bisected. Plus, that's not to  
22 mention that the road could be designed in such a way it  
23 could be, look like a lane with no curb and gutter and very  
24 flat or paved in a special way to make it look more like a  
25 walkway rather than a street. There are ways of mitigating

1 it from a design standpoint as well.

2 D shows another option where there was the  
3 approved access point off of Pershing Street approximately  
4 where the existing driveway is right now. It would come in  
5 -- this is one option. Another option would essentially be  
6 to come in off of Pershing here, go to the south here and  
7 then go up between these fronts and then connect back, so  
8 you would eliminate the, the street all together at that  
9 point.

10 E is another option which would do the same,  
11 essentially the same thing as that one except it would,  
12 between the muse or the fronts of these townhomes straight  
13 up to Springvale.

14 MS. ROBESON: Except you are keeping your binding  
15 element as I understand it.

16 MR. HARRIS: Well, admittedly, we have been back  
17 and forth on that. Given the fact that the community  
18 doesn't want the project no matter what and it's not an  
19 access issue and the Planning Board recommended we not  
20 include that as a binding element, we --

21 MS. ROBESON: Well, they didn't recommend that you  
22 not include it. They included it.

23 MR. HARRIS: No. I think, I think that's been a  
24 misreading of the letter, and I was there at the hearing.  
25 What they said was they had a concern about having their

1 hands tied as far as access and that Springvale might be a  
2 good access point. We said well, we had promised that to  
3 the community. They said well, you didn't get much for your  
4 promise, they're not supporting you. And so in their  
5 letter --

6 MS. ROBESON: All right.

7 MR. HARRIS: In their letter, they recite the  
8 binding elements that we submitted, but the sentence before  
9 that says there may be some changes to these. And if you go  
10 back to their testimony, it was with that Springvale Road  
11 access being suggested as a possible candidate for removal.

12 MS. ROBESON: All right.

13 THE WITNESS: And kind of the final one, which is  
14 alignment F, would be essentially the same as the schematic  
15 development plan with the exception if the house could  
16 physically be shifted and moved further south and --

17 MS. ROBESON: Now, does Technical Staff have these  
18 scenarios?

19 MR. HARRIS: No, they do not.

20 MS. ROBESON: Can you provide them to Technical  
21 Staff?

22 MR. HARRIS: We can provide them to Technical  
23 Staff, sure.

24 BY MR. HARRIS:

25 Q Mr. Iraola, in your opinion as a planner, do you

1 believe one or more of these is approvable?

2 A They're all, essentially, yes. I do believe that  
3 any, any one of these could be approvable. Just keep in  
4 mind that there are multiple I guess positions that Park and  
5 Planning takes and with different specialists. The  
6 Environmental Staff will look at it from one, a different  
7 perspective than say the Transportation Staff versus  
8 Historic Preservation Staff so collectively, they have to  
9 come up with a single position on what can be compatible.

10 MS. ROBESON: I understand that.

11 THE WITNESS: Okay.

12 MS. ROBESON: That's why I'm referring it back to  
13 see --

14 THE WITNESS: But in terms of --

15 MS. ROBESON: -- if any of these are truly  
16 feasible.

17 THE WITNESS: I think they're all physically  
18 feasible.

19 MS. ROBESON: That's not the issue though.

20 MR. HARRIS: Well --

21 MS. ROBESON: Go ahead.

22 MR. HARRIS: Okay.

23 BY MR. HARRIS:

24 Q But do you believe they are approvable at  
25 preliminary plan and site plan as well?

1           A     Yes, I do because I think that, I believe that  
2     this issue really will be flushed out at the time of  
3     subdivision and/or site plan.

4           Q     Okay.

5           MS. ROBESON: Well, I've already spoken with them  
6     and I think one of the options is not -- well, that's an  
7     argument for another day. We'll have Technical Staff review  
8     them and give us their input but it's your opinion and your  
9     testimony that all of them are approvable.

10          THE WITNESS: Any objections certainly to this re-  
11     zoning regarding the impacts to the historic resource is not  
12     an issue and would not preclude an RT re-zoning. A complete  
13     HPC review will be addressed at the time of subdivision and  
14     the Historic Area Work Permit process. There are other  
15     processes that will go under play as well.

16          BY MR. HARRIS:

17          Q     And --

18          MS. ROBESON: Doesn't this -- oh, I'm sorry.

19          MR. HARRIS: No, no.

20          MS. ROBESON: Doesn't this have to go back to --  
21     is it your position that the 37,000 square foot easement is  
22     the environmental, the environmental setting?

23          THE WITNESS: As it stands today, yes.

24          MS. ROBESON: As it stands today. But isn't the  
25     Historic Preservation Commission, I have to remember all the

1 names between the different counties, isn't the Historic  
2 Preservation Commission going to re-look at that?

3 THE WITNESS: Absolutely because that line, and  
4 why it's so jaggedy is really because it's based on the  
5 school special exception because there was a building  
6 essentially right on the edge.

7 MS. ROBESON: Right.

8 THE WITNESS: Their proposed building. That's why  
9 it's -- it will be revisited. There's no question, and I'm  
10 positive that that boundary will be readjusted to conform to  
11 whatever proposal is before them.

12 MS. ROBESON: Okay.

13 BY MR. HARRIS:

14 Q The cul-de-sac plan there, item B, how does that  
15 compare with the Doggett plan as far as access?

16 A It's essentially the same in terms of Private  
17 Street A, plus or minus its placement horizontally but it's  
18 essentially the same.

19 Q As far as the road, I understand that. What about  
20 plan B there and access to Springvale compared to Doggett?

21 A From Springvale, there's -- all the access points  
22 have been eliminated under the cul-de-sac plan versus the  
23 Doggett plan which had 14 access points and driveways  
24 essentially turning Springvale Street into a parking lot in  
25 terms of its character.



1           Q     There was testimony as well about the relationship  
2 of the Silver Spring CBD Sector Plan to this project. Can  
3 you explain your opinion on that relationship?

4           A     There are many policy documents related to this  
5 case including the housing element of the general plan, the  
6 North and West Silver Spring Master Plan, the Silver Spring  
7 Central Business District and Vicinity Sector Plan and the  
8 Purple Line Functional Plan. The general plan, often  
9 referred to as the Wedges and Corridors Plan, was created to  
10 provide an overall vision for the County as a whole. It was  
11 first adopted in 1964 and has been amended periodically  
12 including the most recent amendment which is referred to as  
13 the housing element.

14                     The housing element, approved and adopted for  
15 Council resolution in 17-78 dated March 29th, 1911, or 2011,  
16 essentially amends the housing policy in the 1993 general  
17 plan. The housing element provides general guidance on  
18 housing related to future growth. Chelsea Courts is  
19 consistent with the general policies outlined in the housing  
20 element.

21                     Area master plans and sector plans are  
22 comprehensive amendments to the general plan that provide  
23 detailed and specific land use and zoning recommendations  
24 for a specific area in the County. They also address  
25 transportation, the natural environment, urban design,

1 historic resources, public facilities and implementation  
2 techniques. The North and West Silver Spring Master Plan is  
3 the most pertinent policy document related to this case  
4 since the subject property is located within the plan  
5 boundary. My testimony outlined why Chelsea Courts is  
6 substantially in conformance with this plan.

7           The Silver Spring Central Business District and  
8 Vicinity Sector Plan is interrelated to the North and West  
9 Silver Spring plan in the sense that the CBD is a major  
10 center and the nucleus of the greater Silver Spring area.  
11 The Council and Planning Board recognized that land use  
12 issues between the CBD Sector Plan boundary and the  
13 surrounding master plan area, such as the East Silver Spring  
14 plan and the North and West Silver Spring plan, that they  
15 were interrelated. Therefore, the plans were prepared  
16 simultaneously.

17           The CBD Sector Plan, which I was on the project  
18 team as well, articulated six themes and a shared vision for  
19 a revitalized CBD. Four of these things are related to  
20 Chelsea Courts in a very general way in the sense that they  
21 include the Chelsea or any project should be transit-  
22 oriented, that the downtown, the CBD should be a residential  
23 downtown, that the CBD should be a green downtown in the  
24 sense that public spaces are created throughout the downtown  
25 and that the downtown CBD should be a pedestrian-friendly

1 downtown as well. Chelsea Courts, although not physically  
2 within the CBD boundary, adds to the vitality and continued  
3 success of the revitalization efforts.

4           Functional plans address a system such as  
5 circulation or green infrastructure or a policy such as  
6 agricultural preservation or housing. A functional master  
7 plan amends the general plan but does not make land use or  
8 zoning recommendations. The Purple Line Functional Plan  
9 defines an alignment for the future Purple Line which is  
10 proposed along the Wayne Avenue corridor one block away from  
11 the subject property. Chelsea Courts is consistent with the  
12 policies outlined in this functional plan.

13           Q     You talked at the beginning of your testimony  
14 about the three prongs of the RT zone and indicated that you  
15 would come back and address those. Would you address your  
16 opinion as far as how this application meets the purposes of  
17 the RT zone?

18           A     The intent and purpose of the RT zone as outlined  
19 in Section 59-C-1.721 is to provide suitable sites for  
20 townhouses. The purpose clause requires only one of three  
21 possible locational requirements to be met for approval. It  
22 is my opinion that Chelsea Courts meets two of these three  
23 criteria or requirements. The criteria to determine  
24 suitable sites for townhomes are described as follows.  
25 Quote, "A, in sections of the County that are designated or

1 appropriate for residential development at densities allowed  
2 in the RT zone or B, in locations in the County where there  
3 is a need for buffer or transition uses between commercial,  
4 industrial or high-density apartment uses and low-density  
5 one-family uses."

6           The first criterion designated cannot be met since  
7 there's no specific RT zoning recommendations in the North  
8 and West Silver Spring Master Plan. However, the, however,  
9 the townhouse use is in general conformance with the master  
10 plan.

11           The second criterion, appropriate, is addressed  
12 through a particular site's location as well as the  
13 appropriate density and compatibility. Townhouses are a use  
14 which is more compatible with the surrounding SOECA  
15 neighborhood than the existing institutional school use.  
16 The development of the site with townhomes will preserve and  
17 enhance the predominantly residential character of the area  
18 while at the same time, providing housing diversity and  
19 choice in a convenient location for residents to live near  
20 or around the Silver Spring CBD area. The site is also  
21 appropriate for townhomes due to its proximity to Metro.  
22 It's within a plus or minus 10 minute walk, walking distance  
23 from the Metro. It also has its proximity to neighborhood-  
24 serving retail within the CBD and its access to employment  
25 opportunities.

1           The RT zone is appropriate because with the  
2 flexibility in the proposed design and layout, it provides  
3 more open space amenities than normally --

4           (Whereupon, at 11:24 a.m., there is a break in the  
5 recording.)

6           MS. ROBESON: We're back on the record.

7           BY MR. HARRIS:

8           Q     Okay. Mr. Iraola, we had a bit of a glitch with  
9 the technology here. Can you repeat the last statement that  
10 the court reporter wants you to repeat and then continue,  
11 please, with your explanation about the RT purpose clause?

12          A     This site is also appropriate for townhomes due to  
13 its proximity to Metro, plus or minus 10 minute walking  
14 distance, its proximity to neighborhood-serving retail  
15 within the CBD and its access to employment opportunities.  
16 The RT zone is appropriate because of the flexibility in the  
17 proposed design and layout. It provides more open space  
18 amenities normally not associated by right R-60 zoning. The  
19 property is identified as an institutional use and  
20 institutional sites are found, frequently found appropriate  
21 for approved -- I'm sorry. The property is identified as an  
22 institutional use and institutional sites are frequently  
23 found appropriate, approved and used for RT zoning purposes  
24 such as the Good Counsel site, the Christian Life, G-839,  
25 and the Oxbridge, G-822.

1 Chelsea Courts is appropriately located where it  
2 can utilize the public investment made for the  
3 revitalization of the Silver Spring CBD. Over the last 10  
4 years, substantial Federal, State, County and private  
5 investment exceeded \$450 million in infrastructure transit,  
6 and community programs have made Silver Spring nationally  
7 recognized. Chelsea Courts, at the appropriate density of  
8 14.67 units per acre, enhances this investment by increasing  
9 pedestrian activity to support the revitalization.

10 The third suitability criteria speaks to the need  
11 for a buffer or as a transitional use and is described as  
12 follows. Again, B, I'll quote, "B, in locations in the  
13 County where there is a need for buffer or transition uses  
14 between commercial, industrial or high-density apartment  
15 uses and low-density one-family uses," unquote. The block  
16 defined by Cedar, Ellsworth, Springvale and Pershing serve  
17 as a transitional block containing the nonresident  
18 professional offices along Cedar and the current Chelsea  
19 School site. The master plan defines townhomes and special  
20 exceptions as appropriate strategies or tools to transition  
21 land uses near existing established residential  
22 neighborhoods.

23 Townhouses will act as a buffer and transitional  
24 building type for the SOECA neighborhood north of Springvale  
25 and east of Pershing. The proposed development will

1 transition density with respect to the higher intensity uses  
2 to the west and to the south of the site. New townhouses  
3 will buffer the commercial businesses along Cedar Street and  
4 in the CBD. As redeveloped, the proposed development will  
5 reinforce the residential character of the area by  
6 establishing an appropriate residential use on this  
7 transitional block.

8           The lots along Cedar Street adjacent to the  
9 southern property boundary of the subject property and  
10 recommended for nonresidential professional office will  
11 confront the residential phase of the downtown Silver Spring  
12 project. The proposed townhouses will serve as an  
13 appropriate buffer or transitional use from these commercial  
14 uses to the single-family residential homes to the north.  
15 The proposed development on the property will create a  
16 cohesive, attractive and pedestrian-friendly streetscape for  
17 the community. Chelsea Courts will be a pedestrian-friendly  
18 community as well as enhancing walking opportunities and  
19 linkages to Metro, also linking to community-serving retail  
20 and other civic uses such as parks and the library.

21           In my professional opinion, the proposed re-zoning  
22 meets the second criteria in appropriateness and the third  
23 criteria, buffer or transition in that this is an area of  
24 the County where townhouse development is appropriate and  
25 the project provides a transition from the higher density

1 uses in the CBD, both residential and commercial uses to the  
2 lower density one-family uses to the north.

3 Q A second issue has been discussed back and forth  
4 here about whether the row of nonresidential uses along  
5 Cedar Street is the buffer or transition or whether the  
6 entire block is. Can you expand on that a bit in terms of  
7 your opinion?

8 A The block is defined by Cedar Street, Ellsworth  
9 Drive, Springvale Road and Pershing Drive as the  
10 transitional block, and it's not an interior block.  
11 Interior block would be one just north of there. The  
12 existing school, along with the nonresident professional  
13 offices located along Cedar Street, define the block as a  
14 predominantly nonresidential land use.

15 The master plan does state that the nonresident  
16 professional offices on Cedar Street are somewhat isolated  
17 from the one-family homes in the neighborhood by the Chelsea  
18 School. In other words, the plan recognized the  
19 institutional land use on this block differentiated it and  
20 separated it from the balance of the neighborhood. As a  
21 result, the plan recommends that the properties along Cedar  
22 are appropriate for nonresident special exception office  
23 uses. The North and West Silver Spring Master Plan used two  
24 tools for properties to identify it as buffer or transition  
25 blocks on the edges of the CBD. These tools are nonresident



1 special exceptions, nonresident office special exceptions  
2 and townhomes.

3 The Chelsea School is and was a nonresident  
4 special exception use operating in this block at the time  
5 the master plan was crafted and ultimately approved. It was  
6 identified as an institutional use on the existing and  
7 proposed land use plan maps on pages 18 and 19 of the plan.

8 This implies that the entire block comprised of both the  
9 nonresident professional offices and the school was a  
10 transitional block that buffers the neighborhood from the  
11 CBD. The introduction of townhomes on the balance of the  
12 block to replace an institutional use stabilizes the  
13 neighborhood with more residential uses. This was one of  
14 the methods in which the North and West Silver Spring Plan  
15 identified as appropriate for the edge blocks adjacent to  
16 the CBD.

17 Furthermore, SOECA's position during the Chelsea  
18 School special exception case, as written in Exhibit 113,  
19 stated the Chelsea School site is a very, quote, "is a very  
20 sensitive one for the community as it is a buffer area  
21 between the intense development of the Silver Spring CBD and  
22 the single-family residential community." SOECA recognized  
23 that the entire block served as the buffer between their  
24 homes and the CBD. SOECA was concerned about the school  
25 proposal in 1999 and understandably, has concerns regarding

1 the Chelsea Court proposal. However, this does not mean  
2 that when the school ceases to operate on this block, it is  
3 any less of a buffer or a transition block. It still serves  
4 as a transition block and should be treated as such. Given  
5 this, the RT-15 townhouse proposal is appropriate in this  
6 location.

7 Q Another point of testimony from the opposition had  
8 to do with concerns about precedent and/or, sometimes  
9 referred to as the domino effect if this were to be  
10 approved. Can you address that issue?

11 A There is no precedent for approved and implemented  
12 RT cases where re-zoning has triggered other re-zonings.  
13 The so-called domino effect has simply not occurred and in  
14 my opinion, will not likely occur within the established  
15 surrounding area. Concerns were raised regarding this re-  
16 zoning triggering future re-zoning on the adjacent block to  
17 the east, sometimes referred to as the Wayne block. It's  
18 along Wayne Avenue and around the area of the future Purple  
19 Line station at Dale Drive and Wayne Avenue.

20 It is highly unlikely that the Wayne block would  
21 be a candidate for RT zoning for a number of different  
22 reasons. The first being that assemblage of owner-occupied  
23 stable fee simple R-60 lots would be very difficult. Since  
24 there are no vacant lots or abandoned homes that would  
25 trigger mass sales, it would be very unlikely. Also,

1 assembling similar R-60 lots has been tried and failed. An  
2 example would be some homeowners on Leland Street south of  
3 lot 31 in Bethesda attempted to assemble their properties to  
4 be part of a larger development just south of the Bethesda  
5 CBD. That did not work.

6           The Chelsea Court block differs from the Wayne  
7 block in that the Chelsea parcel is of substantial size for  
8 RT proposal. The current Chelsea School owner is leaving  
9 the site is available, have a willing seller in this case.  
10 Chelsea Court is not replacing an existing one-family home  
11 as it would on the, on the Wayne block. Chelsea Court is  
12 located in a transitional block which is suitable for  
13 townhome development. It is highly unlikely that properties  
14 along Wayne Avenue or the future, or near the future Purple  
15 Line station would be candidates for similar reasons  
16 regarding assemblage of property or the availability of  
17 large tracts of land.

18       Q     And more specifically, can you get into some of  
19 the features of the Wayne block and how your comments  
20 pertain to that block?

21       A     Okay. The block already exists as an island with  
22 the existing one-family detached homes surrounding on three  
23 sides by the CBD along Cedar Street, the Chelsea School, an  
24 institutional use to the west, and the Springvale Terrace  
25 senior housing to the north, and one-family detached homes

1 to the east of Wayne Avenue. This block is not threatened  
2 by the, by the Chelsea School proposal but rather, it's  
3 improved. Chelsea, the Chelsea Courts replaces the  
4 institutional use and restores the residential use along  
5 Pershing, therefore, improving the compatibility. The  
6 Riggs-Thompson house is restored from an institutional use  
7 to its former residential use as well.

8           The majority of the properties on this block are  
9 owner-occupied I believe is what was testified previously by  
10 some opposition, but they were owner-occupied which implies  
11 stability in my mind. Chelsea Courts will also be owner-  
12 occupied and enhance the stability. I believe the master  
13 plan recognizes the stability as well since most of the  
14 block continues to be owner-occupied.

15           The nonresident office stability designation, I'm  
16 sorry, the nonresident office suitability designation was  
17 only applied to the Cedar Street properties between  
18 Ellsworth and Pershing and not between Pershing and Wayne.  
19 The nonresident professional office special exception  
20 requires master plan designation. This implies that the  
21 master plan language limited the nonresident professional  
22 office suitability for the properties on Cedar on the  
23 Chelsea Court block recognizing that the existing school was  
24 still indeed a buffer.

25           The history of townhomes in Silver Spring counters

1 the opposition argument that this proposal will be a  
2 precedent and create pressure on other blocks in this  
3 neighborhood leading to the domino effect where other sites  
4 were zoned RT, but townhouses cases approved today have not  
5 resulted in this phenomenon.

6 Q One of the main issues, clearly, is compatibility  
7 and you talked about that previously. Can you expand upon  
8 your opinion as far as the compatibility of this project?

9 A Compatibility can be achieved in many ways. The  
10 master plan implies that compatibility is important in  
11 community preservation, stability and character. There are  
12 no defined metrics to test for compatibility in the master  
13 plan or in the Zoning Ordinance. I am of the opinion that  
14 compatibility can be achieved through eight metrics as  
15 follows. One, complimentary land uses; two, massing and  
16 scale; three, building height; four, architectural style;  
17 five, building orientation; six, setbacks; seven, buffers  
18 and landscape; and finally, eight, traffic. I'll go over  
19 them one by one in a little bit more detail.

20 The first one, complimentary land uses.  
21 Townhouses and single-family detached homes are inherently  
22 the same one-family land use. They are listed under the  
23 same division in the Zoning Ordinance, Division 59-C-1,  
24 residential zones - one-family. The ownership will be the  
25 same, fee simple. Townhouses are not apartments or any

1 other higher density building types as defined by the Zoning  
2 Ordinance. Townhouses are allowed by right in all  
3 residential single-family zones through the MPDU optional  
4 method. Townhouses exist in all areas of the counties in  
5 harmonies with single-family detached homes in established  
6 neighborhoods. The Chelsea Court proposal will replace an  
7 institutional use with a more compatible residential use.  
8 SOECA confirmed this position during the Chelsea School  
9 special exception with multiple concerns in  
10 incompatibilities associated with the school use.

11 The second point is massing and scale. I'd like  
12 to introduce an exhibit, architectural compatibility.

13 MS. ROBESON: And this will be 211.

14 (Discussion off the record.)

15 (Exhibit No. 211 was marked for  
16 identification.)

17 THE WITNESS: Okay. I'll just briefly explain  
18 what this, what this is and I'll get into it in a little bit  
19 more detail. This is a partial plan view of Springvale Road  
20 between the homes in SOECA --

21 MR. BROWN: That's the next one. That's the next  
22 one.

23 THE WITNESS: I'm sorry. That's the next one.

24 MR. HARRIS: That one.

25 THE WITNESS: This is a plan in the center of,

1 it's a plan enlargement in the schematic development plan  
2 showing the homes on Springvale Road to the north and the  
3 proposed Chelsea Courts to the south. Just immediately  
4 above the exhibit is an elevation of the existing Springvale  
5 SOECA homes which is shown, titled "Existing Springvale Road  
6 Elevation Looking North". Conversely, if you were standing  
7 on the center line of the street looking back, looking to  
8 the south would be the proposed Chelsea Courts elevation.

9 Just a couple of different points I'd like to make  
10 with regards to this exhibit. Essentially, there will be  
11 six fronts of townhomes. It will be confronting nine  
12 existing one-family detached homes on Springvale Road. When  
13 comparing the cumulative length of, of the facades along the  
14 Springvale Road and the Chelsea Courts townhomes, the  
15 Chelsea Courts townhomes total 234 linear feet which is  
16 essentially the cumulative distance between that point and,  
17 the corner of the building, the corner of the building along  
18 this, along the street. So there's 234 linear feet compared  
19 to the existing homes in the SOECA neighborhood which total  
20 295 linear feet. It's roughly 20 percent less facade length  
21 than what is north of, north of the site.

22 I'd also like to introduce the next exhibit which  
23 is the, I'd like to call it the R-60 cluster MPDU  
24 comparison.

25 MS. ROBESON: So this will be 212, and it's the R-

1 60 --

2 THE WITNESS: Cluster.

3 MS. ROBESON: -- cluster MPDU --

4 THE WITNESS: Comparison.

5 (Exhibit No. 212 was marked for  
6 identification.)

7 THE WITNESS: And just real briefly, it's a very  
8 similar exhibit as the previous, previous exhibit with the  
9 exception that it, it takes Mr. Doggett's plan, which was  
10 plan, Exhibit 80, 187 and does a similar comparison with  
11 regards to that. So it also kind of illustrates the  
12 existing scale and massing along Springvale Road.

13 The 14, we'll call them the Doggett homes, are  
14 shown in blue on this and they're really, they're shown to  
15 scale and also are illustrating the 40-foot maximum building  
16 height that would be associated. You can see on the section  
17 below they're, you know, they're very narrow. They would be  
18 very narrow units. But at 40-foot height, you can see the  
19 difference between the Chelsea Courts home which are kind of  
20 in the section below that's called proposed Springvale Road  
21 elevation looking south. I superimposed the elevation from  
22 the previous exhibit to kind of show a comparison between  
23 what would be on, on the south side.

24 But what I think it does demonstrate is that there  
25 is this imposing street wall that is being created using



1 kind of this monotonous building type which would be  
2 marching down Springvale Road. The Chelsea Courts  
3 townhomes, again, which are shown kind of in orange on the  
4 bottom elevation, vary the distance between the units as  
5 well as the width of the ends of those. They also have a  
6 maximum 35-foot building height as opposed to the 40-foot  
7 which are illustrated in the section below. Again, when  
8 comparing the cumulative facade length, the Chelsea Courts  
9 townhomes at 234 feet is still less than the Doggett homes  
10 which come in at 280 feet which is about 16 percent less  
11 than the Doggett homes as a comparison. That would be  
12 massing and scale.

13           The third point of compatibility is building  
14 height. The maximum building height proposed for the  
15 townhomes at Chelsea Courts is 35 feet per the Zoning  
16 Ordinance. The maximum building height for R-60 cluster  
17 MPDU is 40 feet. I believe that the building height is more  
18 compatible with the streets that confront, or the buildings  
19 that confront the property.

20           The fourth metric is architectural style. The  
21 architectural style would be traditional and contextual.  
22 The proposed townhomes will be attractive and complimentary  
23 to the traditional styles found throughout the Seven Oaks-  
24 Evanswood neighborhood. The master plan speaks of  
25 preserving character. Architecture is a big piece of that.

1 Preserving and enhancing the Riggs-Thompson home also  
2 reinstates its former use as a residence. This also creates  
3 a focal element for the community in adding to the sense of  
4 place.

5 Building orientation which is the fifth metric.  
6 The building orientation along Springvale and along Private  
7 Street A will be designed as fronts adding to the visual  
8 compatibility. The remainder of the townhouse fronts will  
9 front onto greenspace as shown on the schematic development  
10 plan. Garages are rear-loaded and any kind of automobile  
11 would be visually mitigated as such and concealed within  
12 alleys.

13 The townhouse buildings work with the existing  
14 grade. As a building typology, the townhomes absorb the  
15 grade better than detached homes. They're essentially  
16 terraced along the, along the grade because they're  
17 positioned parallel to the grade as well. The townhomes  
18 will, you know, gently terrace and transition back to grade  
19 at both ends at the amenity areas.

20 The sixth metric, setbacks. Compatibility can be  
21 achieved with additional setbacks. The setback along  
22 Springvale Road was expanded to implement a linear park or  
23 promenade. The 61-foot setback along Pershing Drive will  
24 accommodate a greenspace within the environmental setting of  
25 the Riggs-Thompson house. This setback enables a distance

1 between the proposed townhouse building and the nearest  
2 existing home at 714 Pershing to be about 230 feet, so  
3 there's 230 feet from the closest building at Chelsea to the  
4 closest building on Pershing Drive.

5           The seventh metric, buffers and landscape.  
6 Compatibility is enhanced with significant buffers  
7 containing open space amenities along the three frontages.  
8 Chelsea Courts will provide meaningful, public accessible  
9 green area open to the neighborhood at large. Additional  
10 street trees along Springvale Road, the double row of street  
11 trees since there is 25 feet, provide additional buffering  
12 and also add to the pedestrian shade amenities for walkers.  
13 The master plan recognizes the difficulty in expanding  
14 public spaces within the community largely because the  
15 neighborhood is built out. There's simply no room to place  
16 additional open space amenities. It's all private.

17           The eighth metric is traffic. The existing  
18 traffic patterns and restrictions will be maintained.  
19 Overall, traffic has a favorable impact than the current  
20 school use or the approved expansion. Mr. Wells will be  
21 testifying to this, the compatibility with regards to  
22 traffic in a lot more detail than I will.

23           BY MR. HARRIS:

24           Q     Okay. The final question that I have for you is  
25 to ask you to clarify your comments earlier about the

1 historic setting and the role of the Historic Preservation  
2 Commission.

3 A Okay. The HPC Staff, during the DRC --

4 MR. BROWN: I object to hearsay statements about  
5 what happened during the DRC meeting by this man.

6 MS. ROBESON: He --

7 MR. HARRIS: No.

8 MS. ROBESON: Okay.

9 MR. HARRIS: No, no --

10 MS. ROBESON: Don't answer. Okay. Do you have  
11 another question?

12 BY MR. HARRIS:

13 Q You can quote from that report.

14 MS. ROBESON: Is that report in the record?

15 THE WITNESS: Yes.

16 MR. HARRIS: I think it is, yes. I'll find it on  
17 my -- yes. Yes. That's 107. Yes.

18 THE WITNESS: I'd like to refer to Exhibit 107,  
19 which is a memo from Scott Whipple, Historic Preservation  
20 Staff at Park and Planning, with regards to Local Map  
21 Amendment G-892 on May 19th, 2011, the date of the Planning  
22 Board hearing which was introduced at that particular  
23 hearing. Just to clarify, I'd like to make a correction  
24 with regards to my testimony earlier with regards to the  
25 environmental setting. It is indeed established at master

1 plan and cannot be altered by the HPC so essentially, the  
2 delineation, the jagged delineation is there, is the actual  
3 environmental setting and it won't be encroached upon.

4 MS. ROBESON: Well, wait. Is that the -- you're  
5 saying --

6 THE WITNESS: The 37,056. That's established.

7 MS. ROBESON: So you're saying that even though  
8 the Chelsea School is no longer using it, it's not 1.4  
9 acres, it's forever --

10 THE WITNESS: That's correct.

11 MS. ROBESON: -- 37.

12 THE WITNESS: That's correct.

13 MS. ROBESON: And what's your basis for that?

14 THE WITNESS: Basis?

15 MS. ROBESON: Yes.

16 THE WITNESS: The plan specifically states it, on  
17 page 29 of the plan.

18 MS. ROBESON: Okay. All right.

19 THE WITNESS: The appendix is something else.  
20 Remember, I testified earlier that --

21 MS. ROBESON: Yes. I'm familiar with the  
22 technical appendices but anyway.

23 THE WITNESS: All right.

24 MS. ROBESON: Can I ask you a question while  
25 you're going through these scenarios. That setback from

1 Pershing, is that going to change with the road alignment?  
2 That amount of setback is not one of your binding elements,  
3 correct?

4 THE WITNESS: Correct.

5 MS. ROBESON: If you go back to -- what was the  
6 sixth scenario exhibit of the road alignments? I'll find  
7 it. Sorry.

8 THE WITNESS: It's 210.

9 MS. ROBESON: 210, yes. Is that, is the setback  
10 shown going to change with the road alignments?

11 THE WITNESS: This, this particular setback?

12 MS. ROBESON: Yes.

13 THE WITNESS: Under this schematic development  
14 plan, it is what it is.

15 MS. ROBESON: No. I mean under your scenarios.

16 THE WITNESS: They may, it may change. I mean,  
17 for the most part, this building corner is not, it probably  
18 would stay the same under any of these scenarios. I don't  
19 believe this building corner, which is really the critical  
20 corner from a setback, that is the 61 feet dimension that  
21 we're mentioning off of that corner, it probably won't  
22 change because it doesn't necessarily encroach within the  
23 designated buffer, environmental setting and therefore, the  
24 distance, really, between this building, which is 714  
25 Pershing, to the closest one still remains at 230-odd feet.

1     That's a building distance, not a setback.

2             MS. ROBESON:   Even if you curve the --

3             THE WITNESS:   Right.   The building, I'm talking  
4     about the building distance.

5             MS. ROBESON:   Right.

6             THE WITNESS:   It probably would not change.

7             MS. ROBESON:   Even with the northern alignment.

8             THE WITNESS:   Yeah.   It probably wouldn't change.  
9     Just to clarify --

10            MS. ROBESON:   How are you going to get the  
11     northern alignment in there?

12            THE WITNESS:   Which one are you referring to as  
13     the northern alignment.

14            MS. ROBESON:   E.

15            THE WITNESS:   E, the road doesn't, doesn't go  
16     away.   That would be slightly pushed in a couple of  
17     different directions but it probably would not encroach into  
18     the environmental setting.

19            MS. ROBESON:   Where's the -- can you put the  
20     development plan back, the schematic development plan back  
21     up?

22            THE WITNESS:   Um-hum.

23            MS. ROBESON:   Exhibit 30A.   Where, can you outline  
24     again roughly what you -- is your environmental setting, how  
25     big is that or how much area do you have to devote to the

1 environmental setting?

2 THE WITNESS: It's in excess of 37,000. By how  
3 much, I don't know but let me see if I can delineate where  
4 the environmental setting is.

5 MS. ROBESON: All right.

6 THE WITNESS: It's lightly placed on this plan I  
7 believe.

8 MS. ROBESON: So you're marking Exhibit --

9 THE WITNESS: Let me get a marker.

10 MS. ROBESON: You're marking Exhibit 30A.

11 THE WITNESS: Correct.

12 MS. ROBESON: A duplicate of Exhibit 30A I guess  
13 with a black pen.

14 THE WITNESS: With a black pen.

15 MS. ROBESON: In hatch, in -- I can't see what  
16 mark you're making but -- in hatch lines.

17 THE WITNESS: Yeah. Dash lines.

18 MS. ROBESON: Dash lines.

19 THE WITNESS: So essentially, there is a portion  
20 within the, we'll call it the Pershing Park piece --

21 MS. ROBESON: Yes.

22 THE WITNESS: -- that is outside the environmental  
23 setting. It's, I would say, approximately 20 to 30 feet of  
24 distance.

25 MS. ROBESON: So the northwest, the northeast



1 corner approximately.

2 THE WITNESS: Correct. Right. Of Pershing and --

3 MS. ROBESON: North kind of runs like this.

4 THE WITNESS: The corner of Pershing and  
5 Springvale. Yes. There is additional area there that would  
6 be not within the technical environmental setting but for  
7 all intensive purposes, it physically and visually looks  
8 like it, would look like it. That would be an enhanced  
9 buffer in my, in my opinion.

10 MS. ROBESON: Okay.

11 BY MR. HARRIS:

12 Q Let me show you, I think it's Exhibit 129, it is,  
13 I didn't have mine marked unfortunately, Exhibit 129 is  
14 labeled in the list here as memo from Cathy Conlon dated  
15 March 21, 2011, the Park and Planning Development Review  
16 Committee. The date on it is actually March 17 and it's  
17 regarding the March 21 DRC meeting so I'm sure that's the  
18 same thing but, so it's Exhibit 121. I would ask you to  
19 recite the sentence at the bottom of that about the  
20 historic, about the road.

21 A Okay. The Historic Preservation section  
22 recommends an alternative alignment for Private Street A to  
23 provide an additional buffer between the historic resource  
24 and the street. The applicant must submit a Historic Area  
25 Work Permit application to remove the non-historic section

1 of the principal structure and for construction of Private  
2 Street A.

3 Q Now, with respect to Street A, does that say that  
4 that road cannot be placed through the historic setting?

5 A No, it doesn't.

6 Q Does it imply something to the contrary to you?

7 A No, it doesn't.

8 Q What does it imply to you?

9 A It implies that in my mind, that they have an  
10 alternative alignment or are thinking about the potential  
11 for an alternative alignment that will be resolved certainly  
12 at a later date.

13 Q Do you believe that your option C on Exhibit 210  
14 would be such an alternative?

15 A At the Planning Board hearing, Mr. Whipple did  
16 kind of mention that he, it was, his concern was primarily  
17 any conflict with Street A and a historic portion of the  
18 street, of the building. That was really -- he didn't  
19 necessarily say that there wouldn't be a street there, just  
20 that particular one that's being shown he had some concerns  
21 about.

22 Q Okay. I have no further questions.

23 MS. ROBESON: Mr. Brown. Do you have any cross-  
24 examination for Mr. Iraola?

25 MR. BROWN: Oh, yes.

1 MS. ROBESON: I had a feeling it was a rhetorical  
2 question but I thought I'd ask it anyway. Go ahead.

3 CROSS-EXAMINATION BY COUNSEL FOR OPPOSITION

4 BY MR. BROWN:

5 Q Mr. Iraola, your eight factors of compatibility.  
6 I want to go back to Exhibit 149 for a minute. This is my  
7 townhouse cluster sketch. Do you recall that?

8 A I'm sorry. Which one?

9 Q 149.

10 MR. HARRIS: Let me see if I can find that for  
11 you.

12 THE WITNESS: Is it the Brown plan?

13 BY MR. BROWN:

14 Q Yes.

15 MR. HARRIS: Everybody's got to have a plan here.

16 MS. ROBESON: Yes. I think both attorneys and two  
17 experts.

18 MR. HARRIS: Don't take offense, Dave, but I can't  
19 find it. I didn't really throw it away. I don't see it.  
20 Sorry. So do you want to --

21 THE WITNESS: I can take a look at -- we can  
22 share. Okay.

23 BY MR. BROWN:

24 Q I take it from your testimony, the Brown plan is  
25 in error by putting in 39 units instead of 32, is that

1 right?

2 A Yes.

3 Q Well, if we took seven units away from the Brown  
4 plan, there would certainly be enough room to put in this  
5 bulb at the end of the cul-de-sac, wouldn't there be?

6 A Probably. Yes.

7 Q So this sketch would more or less conform to your  
8 alternate need but for the density.

9 A No. I would say that the building orientation is,  
10 is an error in this plan.

11 Q The buildings are oriented in the same direction  
12 as on alternate B on Exhibit 210, aren't they?

13 A No. You're exposing the rear to the environmental  
14 setting both on Pershing and Ellsworth so essentially,  
15 people would be looking at the rears of units on your plan.

16 Q That could easily be adjusted, couldn't it, and  
17 still within, with all that room that you have with 32  
18 units, you could easily correct that, right?

19 A It's really B I'd correct. B is probably a better  
20 depiction of how you would --

21 Q Yes. But I'm saying that the essential difference  
22 between my, between the Brown plan and Exhibit B is the  
23 number of units.

24 A And the building orientation.

25 Q And the building orientation. Okay. Now, going

1 over your list of eight items of compatibility --

2 A Um-hum.

3 Q -- which of them is not equally or better served  
4 with 32 units rather than 76 units using --

5 A In terms of --

6 Q -- using this format, the B alignment format on  
7 Exhibit 210.

8 A Well, the land uses -- under B, land uses would be  
9 compatible. The massing and scale would certainly be  
10 compatible as well. Building height is compatible. The  
11 architectural style would probably remain the same. I'm  
12 referring to B here.

13 Q Yes.

14 A Let's see. Building orientation is essentially  
15 the same. The setbacks would be essentially the same.  
16 Buffers and landscape would be the same, perhaps maybe  
17 enhanced in the sense that you don't have pavement in the  
18 buffer. Traffic would be the only thing that would be  
19 different on this one because you now, I have no idea what  
20 the traffic implications are with regard to a single access  
21 point. But other than that, all these plans, in terms of  
22 access, would certainly be, to some extent, compatible.

23 Q Well, whatever the traffic impact would be with  
24 alignment B, it would be less with 32 units than with 76  
25 units, wouldn't it?

1           A     Yes.

2           Q     You used, in your testimony, the phrase gross  
3 underutilization if the maximum density would be 32 units,  
4 correct?

5           A     Yes.

6           Q     Can you tell me where in the Zoning Code the term  
7 gross underutilization is found?

8           A     It's not, probably not in the Zoning Code.

9           Q     Can you tell me where in the master plan the term  
10 underutilization or gross underutilization is used?

11          A     I'm not sure if it's in the master plan, that  
12 particular term.

13          Q     You said --

14          A     It may be.

15          Q     You said that the housing element policy was to  
16 provide as much transit-oriented development as possible,  
17 correct?

18          A     That's part of it, yes.

19          Q     Would you show me, please, in Exhibit 132 where  
20 that thought is expressed?

21          A     You're talking about 132 which is the housing  
22 element?

23          Q     That's what I, that's my number.

24          A     Okay. Could you repeat the question again?

25          Q     Yes. I'm asking you where in the housing element,

1 Exhibit 132, your notion of as much transit-oriented  
2 development as possible is expressed.

3 A There's several, there's one reference here under  
4 attachment to the resolution. Maintaining an overall --

5 Q Would you tell me where you're reading from,  
6 please?

7 A Challenges and goals. It's attachment to  
8 Resolution No. 17-78.

9 Q Okay. That's page 6.

10 A Okay. Maintaining an overall balance of housing  
11 and jobs in the County is important to meeting new  
12 affordable housing goals providing opportunities for people  
13 to work in the County, to live in the County encouraging  
14 transit use.

15 Q Are you reading from 132?

16 MR. HARRIS: This is the whole --

17 THE WITNESS: It's the Planning Board draft?

18 MR. HARRIS: That is, yes.

19 THE WITNESS: Does that have -- I'm looking off  
20 the resolution, not the Planning Board draft.

21 MS. ROBESON: Well, which one -- is the resolution  
22 the adoption of the Planning Board draft?

23 THE WITNESS: In part. There's some underscoring  
24 and so on and so forth that are associated with it.

25 MR. HARRIS: They made changes.

1           THE WITNESS: It's just recently done in March so  
2 it probably hasn't been published as a final document yet.  
3 But in essence, you know, there are, you know, it does speak  
4 to in 2006, the County acquired only 10 percent of new  
5 market rate housing units built in areas served by Metro  
6 stations available for workforce housing and so forth.

7           MS. ROBESON: Is this workforce housing?

8           THE WITNESS: No. Under goals, concentrate new  
9 housing and mixed-use transit-oriented areas. There's a  
10 whole paragraph with regards to that. Focusing growth in  
11 higher density mixed-use transit-oriented centers also meets  
12 other important planning objectives including reducing the  
13 per capita carbon footprint of new growth, diversifying the  
14 housing stock and creating vibrant pedestrian-oriented  
15 communities is one of the goals.

16           BY MR. BROWN:

17           Q     Among the goals on page 8 are that master plans  
18 must devote special attention to protecting existing  
19 neighborhoods, isn't that right?

20           A     Yes.

21           Q     Also, going back to Exhibit 131, this is the  
22 resolution approving the housing element, I'd like for you  
23 to turn your attention to page 6.

24           A     Okay.

25           Q     In the main paragraph on page 6 halfway down, it



1 says in 2009, the County had a shortage of 43,000 units that  
2 were affordable for households earning less than 90,000 a  
3 year but that the number approaches 50,000 when household  
4 size is taken into account. Do you see that statement?

5 A Yes.

6 Q And then it goes on to say in contrast, a surplus  
7 of units was available to those with more than 150,000 in  
8 annual household income. What is your perception of the  
9 income, the annual household income targeted group for the  
10 townhomes that are going to be built on this property if  
11 this project is approved?

12 A I'm not an expert in economic development.

13 Q You've given a lot of opinions here today and I'm  
14 asking what your understanding or opinion is of the targeted  
15 group in terms of annual household income?

16 A That one, I think Mr. Youngentob has indicated  
17 what the average household, or the average cost of these  
18 homes would be. It would be whoever can afford a home that  
19 costs that much. I'm not sure who he referred to.

20 Q I'm trying to remember. Was his number 600 to  
21 800,000 on the price?

22 A I can't remember specifically but perhaps.

23 Q With regard to your testimony about satisfying two  
24 of the three criteria to qualify for a re-zoning, the first  
25 one that you said was, in your mind, clearly satisfied was

1 the appropriate criteria.

2 A Yes.

3 Q Correct?

4 A Yes.

5 Q I'm reading the section of the Code that this is  
6 coming from. It's Section 59-C-1.721(a). Are you familiar  
7 with the language of that section?

8 A Refresh my memory here. Say that again. Which  
9 one? Which section?

10 Q Section 59-C-1.721(a). Are you familiar with that  
11 language?

12 A Yes. Yes.

13 Q And this is where the first two criteria come  
14 from, isn't it?

15 A The first criteria.

16 Q Well, the first criteria was designated.

17 A Correct.

18 Q You said we didn't need that, correct?

19 A Correct.

20 Q And the second one was appropriate.

21 A That is correct. Appropriate.

22 Q So those two criteria are all embraced within  
23 subparagraph A.

24 A Yes. That is correct.

25 Q All right. Now, let's just focus on the

1 appropriate part.

2 A Okay.

3 Q It says appropriate for residential development at  
4 densities allowed in the RT zones. Now, if you had a  
5 project where you were trying to develop it at RT-8, you  
6 wouldn't feel that it was your obligation to demonstrate  
7 that this was the site that was appropriate for a density of  
8 RT-15, would you?

9 A It depends on the, it would depend on the site.  
10 It would depend on the site and its location and the  
11 context.

12 Q No. My question is would you feel that you needed  
13 the burden of demonstrating that it was, that a density of  
14 RT-15, 15 dwelling units per acre was appropriate if you  
15 were asking for re-zoning at 8?

16 A The appropriateness clause still would apply. It  
17 would still apply.

18 Q Can you try and answer my question?

19 A Okay. Can you restate your question?

20 Q All right. If you're coming in with a request to  
21 re-zone to RT-8, doesn't this section suggest to you that  
22 what you need to do is to show appropriateness of a density  
23 of eight dwelling units per acre?

24 A Yes.

25 Q And if you're coming in with a request at RT-15,

1 doesn't this section suggest that it is appropriate for you  
2 to have to demonstrate appropriateness at a level of 15  
3 dwelling units per acre?

4 A Yes.

5 Q So the whole appropriateness analysis is one that  
6 is tied to the density of the project, and density is the  
7 focus of this requirement, isn't it?

8 A Yes. In part.

9 Q Let's look at this picture.

10 MS. ROBESON: For the -- what exhibit.

11 MR. BROWN: Exhibit 209.

12 MS. ROBESON: Okay.

13 BY MR. BROWN:

14 Q This is where we have nine different townhome  
15 projects in the north and west Silver Spring area, okay?  
16 No. 1, Fairview Court. Is this at a density of 15 dwelling  
17 units per acre?

18 A No.

19 Q It's less, isn't it?

20 A Well, the -- I don't believe that the RT-15  
21 existed at this time so it couldn't --

22 MS. ROBESON: Well, is it -- I think his question  
23 was is it RT-15.

24 THE WITNESS: Yes, it is. No. It's not RT-15.

25 BY MR. BROWN:

1 Q Is project no. 2 RT-15?

2 A I do not believe it is.

3 Q No. 3?

4 A Nope. I don't believe it is.

5 Q No. 4?

6 A No.

7 Q No. 5?

8 A No.

9 Q No. 6?

10 A I don't believe it is either.

11 Q No. 7?

12 A No.

13 Q No. 8?

14 A No.

15 Q No. 9?

16 A No.

17 Q And I believe your testimony was that no. 2, 4, 5,

18 6, 7 and 8 are all along a major road, is that right?

19 A Yes, they are.

20 Q How many of them have as many as 76 dwelling

21 units?

22 A I don't know how many units, what the unit count

23 is on some of these.

24 Q Please, how many of them are even close to 76?

25 A Probably the closest one is Georgia Avenue and

1 Spring just looking at the density.

2 Q Yes. And that's under 50, isn't it?

3 A Is it under 50? I don't know. I didn't count  
4 them.

5 Q Well, please take a look.

6 A There's about 40 approximately.

7 Q You testified that it's not unusual for  
8 institutional sites to be redeveloped as RT, in RT zoning,  
9 correct?

10 A In some cases, yes.

11 Q Yes. Well, in this case, we are dealing with an  
12 institutional site whose underlying zoning is R-60, correct?

13 A Yes.

14 Q And it has an institution on it only because it  
15 has a special exception, correct?

16 A Yes.

17 Q And you understand that a special exception is a  
18 legislative judgment that the use of the property for that  
19 particular use is deemed, as a matter of law, compatible  
20 with residential surrounding uses if conditions can be  
21 attached to the use to ensure compatibility.

22 A Yes.

23 Q With regard to the adjusted surrounding area being  
24 inclusive of the area between Cedar Street and Fenton  
25 Street, or as Mr. Doggett said, that an appropriate

1 surrounding area should end at Cedar Street, here is my  
2 question for you. In this area between Cedar Street and  
3 Fenton Street, what kind of and nature of adverse effects  
4 from this property would you anticipate in this area?

5 A Adverse effects. I see benefits. I don't really  
6 see adverse effects.

7 Q I see. Here it is.

8 MS. ROBESON: Exhibit 20 --

9 MR. BROWN: 7.

10 MS. ROBESON: -- 7.

11 BY MR. BROWN:

12 Q Can you tell me a little bit more about this case,  
13 this case G-797? Was this a re-zoning?

14 A Yes.

15 Q From what to what?

16 A R-60 to RT I believe.

17 Q RT what?

18 A I think it's 12.5.

19 Q How many units are there in this re-zoning?

20 A Six probably.

21 Q Six units. Is the commercial use on one side?

22 A It's mixed-use.

23 Q And it's facing two homes on Chestnut Street.

24 A Correct. And adjacent to.

25 Q Three townhomes facing two single-family homes.

1           A     Yes.  Confronting two, yes.

2           Q     And with something like 100 or 200 feet in from  
3  Wisconsin Avenue.

4           A     Approximately.

5           Q     Let's go back to Exhibit 107 for a minute, please,  
6  Mr. Whipple's memorandum.

7                   MR. HARRIS:  Exhibit 107?

8                   MR. BROWN:  Yes.

9                   THE WITNESS:  Okay.  Yes.

10                  BY MR. BROWN:

11           Q     The last sentence on that page, on the second page  
12  is a statement of staff concern about the placement of  
13  Private Street A, isn't that right?

14           A     Yes.  That last paragraph is about that.

15           Q     I'm sorry.  That was the second to the last  
16  sentence.  Now, do I understand it is your testimony that  
17  because the master plan specifies a number of square feet  
18  for the historic setting that the Historic Preservation  
19  Commission is bound by that?

20           A     Yes.

21           Q     Do you have a copy of the Board of Appeals opinion  
22  approving the Chelsea School special exception, Exhibit 109?

23                   (Discussion off the record.)

24                   THE WITNESS:  All right.  Yes.

25                  BY MR. BROWN:



1           Q     All right. Looking at paragraph, under findings  
2 of fact 3F, do you see anything in here about the  
3 construction of a roadway all the way along the backside of  
4 the southern side of the property?

5           A     It makes reference to a driveway.

6           Q     Yes. It says the upper lot was to be accessed by  
7 a driveway on Pershing and that the lower lot would be  
8 accessed by, from Ellsworth Drive, right?

9           A     Yes.

10          Q     There's nothing about a through street in this  
11 proposal, is there?

12          A     Well, the plan that I reviewed that's associated  
13 with this did make the connection between Pershing, all the  
14 way to Ellsworth. Circuitous as it was, there was a  
15 connection, a drivable connection.

16          Q     There's also the requirement in paragraph 8 of the  
17 conditions of approval on page 9 regarding the Riggs-  
18 Thompson house, isn't there?

19          A     Yes.

20          Q     One of the things they were supposed to do was --  
21 oh, here it is. I'm sorry. It's on page 2 of the Planning  
22 Board's findings of fact, finding of fact no. 8, that the  
23 applicant proposes the removal of a non-historic addition to  
24 the Riggs-Thompson house to improve the view from the  
25 neighborhood.

1 A Yes.

2 Q Do you see that?

3 A Yes, I do.

4 Q They didn't do that, did they?

5 A Who is they?

6 Q The applicant, Chelsea School. This is something  
7 that you said you were going to do, your client was going to  
8 do, correct?

9 A That's correct.

10 Q That's because they didn't do it even though they  
11 were required to, the Chelsea School.

12 A The Chelsea School.

13 Q Correct.

14 A Because the Chelsea School, none of the, none of  
15 these improvements have really been made.

16 Q Okay. And similarly, the Chelsea School never got  
17 approval for a driveway along the backside of the property,  
18 did they, from the Historic Preservation Commission?

19 A That, I don't know.

20 (Discussion off the record.)

21 BY MR. BROWN:

22 Q Looking at Exhibit 112G for a minute, Mr. Iraola,  
23 you talked at length about this particular block surrounded  
24 by Pershing, Cedar, Wayne and Springvale as unlikely to be a  
25 candidate for redevelopment in the RT zone, correct?

1           A     Yes.

2           Q     And one of the reasons was that these properties  
3     were individually owned and it would be hard to assemble  
4     them.

5           A     Yes.

6           Q     If in fact this area deteriorated over time and  
7     someone did buy up with the properties and came in for a re-  
8     zoning, wouldn't this property, if it got redeveloped in the  
9     RT zone, be considered part of the surrounding area to be  
10    considered as affected by the proposal?

11          A     Absolutely.

12          Q     Let's see.

13               (Discussion off the record.)

14               BY MR. BROWN:

15          Q     Mr. Iraola, I believe you testified on direct that  
16     under the RT zoning, you could, this property has a density  
17     allowance of 96 units as opposed to 76 units, right?

18          A     Yes. Under the 22 percent bonus density.

19          Q     Right. My question to you is considering the fact  
20     that you need to provide a certain amount of space for the  
21     historic setting for the Riggs-Thompson house and at least  
22     40 percent greenspace, do you realistically think you could  
23     possibly squeeze anymore units in on this property than you  
24     have?

25          A     You would sacrifice the publicly accessible

1 greenspace. You would sacrifice the greenspace in order to  
2 get more density on there. And it's, it is 30 percent, not  
3 40 percent minimum that's required green area.

4 Q So what would that be? That would be some more  
5 units out in this area on the upper left-hand northwest  
6 corner?

7 A Possibly, yeah. That would probably be the  
8 logical place since you're coming up against the  
9 environmental setting.

10 (Discussion off the record.)

11 BY MR. BROWN:

12 Q Going back to the question I asked you before  
13 about this block, Pershing, Cedar, Wayne and Springvale, I'd  
14 like you to focus one block further up where the Springvale  
15 Terrace senior housing is. This property is all owned by  
16 one owner, isn't it?

17 A That's correct.

18 Q So isn't it the case that the concern that you  
19 have about the inability to consolidate these properties  
20 would not apply to this property, the Springvale Terrace --

21 A It's all under one ownership and it's substantial  
22 in size.

23 Q If this property is developed at RT-15, would you  
24 regard it as increasing the vulnerability of Springvale  
25 Terrace to be developed at RT-15?

1 A Not necessarily.

2 Q Not necessarily?

3 A No. No.

4 Q Not at all?

5 A It potentially could. It really depends on the  
6 owner and so on and so forth, other variables.

7 Q Well, wouldn't it be easier to justify re-zoning  
8 at RT-15 here if it's already been done over here on the  
9 Chelsea Court property?

10 A Could it, yes.

11 Q Wouldn't it be easier to justify it if it's  
12 already been done on the RT, on the Chelsea Court property?

13 A Yes. But it already exceeds the density.

14 Q It what?

15 A It already exceeds the RT-15.

16 Q Yes.

17 A Down-zoning it in other words?

18 Q Well, you can characterize it that way if you'd  
19 like. It's an R-60 property.

20 MS. ROBESON: It has less traffic.

21 THE WITNESS: Yeah. A lot less.

22 (Discussion off the record.)

23 MR. BROWN: I'm through.

24 MS. ROBESON: Okay. Thank you, Mr. Brown. Mr.  
25 Harris, any redirect?

1 MR. HARRIS: Just a few, please.

2 REDIRECT EXAMINATION

3 BY MR. HARRIS:

4 Q Mr. Iraola, are you aware of any requirement that  
5 in order to get RT-15 zoning, you have to prove that RT-8 or  
6 some other RT zone doesn't work?

7 A No.

8 Q In your opinion, will the RT-15 zoning protect the  
9 residential neighborhood of SOECA under the housing element  
10 guidance to protect residential neighborhoods?

11 A Yes, it will.

12 Q Does the project have only market rate units or  
13 also MPDUs?

14 A No. There's 12-and-a-half percent MPDU units that  
15 are proposed.

16 Q And would those units be sold or rented to people  
17 at incomes below \$150,000?

18 A Yes. They probably would.

19 MR. BROWN: They better be.

20 BY MR. HARRIS:

21 Q Are you aware of how many units the Good Counsel  
22 RT-15 zoning case had?

23 A I don't recall the exact number.

24 Q Was there more than 76?

25 A There's absolutely more than 76.

1 Q Significantly more than 76?

2 A I would say yes. It's a bigger site.

3 Q If --

4 MS. ROBESON: What was the density on that case?

5 THE WITNESS: It's 13.5, 4, something like that.

6 MS. ROBESON: Okay.

7 BY MR. HARRIS:

8 Q If the record were to show that Kathleen Samiy  
9 testified that this Laytonsville Road site, no. 3, is zoned  
10 RT-15, do you have anything to disprove that or would you  
11 accept her testimony that it's RT-15?

12 A Looking at a certified zoning map would determine  
13 that.

14 Q Okay. Let me show you Exhibit 192. Can you tell  
15 us what that is?

16 A This is a landscape plan for special exception  
17 Chelsea School Attachment A34, Case No. S-2405.

18 Q And does that show the driveway about which you  
19 were talking running from Springvale down to, I mean from  
20 Pershing down to Ellsworth Drive?

21 A Yes. There is a connection.

22 MR. HARRIS: I have no further questions.

23 MS. ROBESON: Very well. Any recross. Ms. Volk?

24 MR. BROWN: Yes.

25 MS. ROBESON: Okay. Well, wait. Let's get Ms.

1 Volk up here. You get extra redirect, Mr. Harris, if --

2 RECROSS-EXAMINATION BY MS. VOLK

3 BY MS. VOLK:

4 Q Mr. Iraola, you talked about transit-oriented  
5 development. Do you know the difference between transit-  
6 oriented and transit-proximate development?

7 A Transit-adjacent and transit-oriented development?

8 Q Um-hum.

9 A The terms are oftentimes interrelated and  
10 oftentimes used at the same time. I mean transit-adjacent  
11 development would be, I would consider this probably  
12 transit-adjacent development. Transit-oriented development  
13 is probably what's happening at the Silver Spring Metro  
14 station where there is a true benefit to transit users in  
15 the sense that you're creating transit facilities within the  
16 same property.

17 Q Okay. Thank you.

18 MS. ROBESON: Okay. Do you have any --

19 MR. HARRIS: No, thank you.

20 MS. ROBESON: Mr. Brown, do you have any recross  
21 based solely on the redirect?

22 MR. BROWN: Yes.

23 (Discussion off the record.)

24 RECROSS-EXAMINATION BY COUNSEL FOR OPPOSITION

25 BY MR. BROWN:



1           Q     Mr. Iraola, on this Laytonsville Road property, do  
2     you know what this gray strip along here is toward the lower  
3     left-hand corner of the property?

4           A     Yes. I believe that's the CSX Rail Line.

5           Q     All right. Do you know what the actual density of  
6     the project is?

7           A     No, I don't.

8           Q     And do you know whether or not Exhibit 192 is the  
9     approved site plan for the Chelsea School?

10          A     I believe it is.

11          Q     Isn't it in fact the landscape plan?

12          A     Right. That shows the site, all the site  
13     improvements.

14               MR. BROWN: I have nothing further.

15               MS. ROBESON: All right. Mr. Harris, how many  
16     more rebuttal witnesses do you have?

17               MR. HARRIS: Two.

18               MS. ROBESON: Two more?

19               MR. HARRIS: Yes.

20               MS. ROBESON: Okay. We will break for lunch, then  
21     we'll come back quarter to 2. So we'll break for 45  
22     minutes, all right? We're going off the record.

23               (Whereupon, at 12:56 p.m., a luncheon recess was  
24     taken.)

25               MS. ROBESON: We're back on the record in G-892,

1 Chelsea School Residential Associates. I see Mr. Wells is  
2 here to testify. Mr. Wells, you're still under oath.

3 MR. WELLS: Thank you.

4 (Witness previously sworn.)

5 DIRECT EXAMINATION

6 BY MR. HARRIS:

7 Q Okay. Mr. Wells, can you explain for the group  
8 here the foundation for the trip generation rates used by  
9 Montgomery County through its LATR standards?

10 A Yes. I'd be happy to. The LATR, or Local Area  
11 Transportation Review, trip generation rates contained in  
12 the LATR guidelines were developed by the Park and Planning  
13 Commission Staff based on actual traffic counts conducted in  
14 Montgomery County, not on surveys. The M-NCPPC database  
15 includes counts of more than 900 townhouses which is larger  
16 than the 216 Silver Spring households used in the  
17 alternative trip generation rates derived by Dr. Cirillo. I  
18 hope I'm pronouncing her name correctly.

19 Q Yes.

20 MS. ROBESON: I think Cirillo.

21 MR. HARRIS: Cirillo.

22 THE WITNESS: Cirillo. The Park and Planning  
23 rates have been found to be reliable for traffic forecasting  
24 purposes and all types of development applications. In  
25 fact, they're the mandated standards that we are compelled

1 to use in re-zoning applications. The M-NCPPC CBD rates are  
2 lower than the county-wide rates given the higher transit  
3 usage, walking and other alternative forms of transportation  
4 and as I testified previously, we conservatively use the  
5 county-wide rates instead of the CBD rates because we're not  
6 in the CBD. The trip distribution that we used also is  
7 based on Park and Planning data which again we're compelled  
8 to use because they're part of the LATR guidelines.

9 BY MR. HARRIS:

10 Q And have you reviewed Dr. Cirillo's testimony and  
11 analysis, and can you comment on her study?

12 A Yes. As I understand it, Dr. Cirillo developed  
13 her own trip generation rates for townhouses and single-  
14 family detached homes based on household travel diaries  
15 collected for the purpose of developing a regional travel  
16 demand model in metropolitan Baltimore. She also made  
17 several assumptions along the way as she derived her rates.  
18 Dr. Cirillo concluded that the Park and Planning rates are  
19 too low in the morning but too high in the afternoon, and  
20 she concluded that her rates should be used rather than the  
21 Park and Planning rates.

22 I disagree with her conclusions for several  
23 reasons. Again, the Park and Planning rates are based on  
24 actual traffic counts. Dr. Cirillo's rates are based on  
25 what people said they did and not based on observations by

1 others of what people actually did.

2 MS. ROBESON: I'm sorry.

3 (Discussion off the record.)

4 MS. ROBESON: Sorry. I apologize. Excuse me.

5 Over the break, I left a message for Technical Staff. We  
6 had talked earlier about time frames for reviewing the six  
7 scenario private street alignments. He says the only time  
8 that he can get all Technical Staff together is tomorrow at  
9 11:00 and he wants the applicant to be there to be able to  
10 answer questions. And he wants to know, he's waiting, he's  
11 going to a meeting after that, he wants to know if that's a  
12 possibility from the applicant's end.

13 MR. HARRIS: Absolutely.

14 MS. ROBESON: Okay. All right.

15 BY MR. HARRIS:

16 Q All right. Now, you were talking about Dr.  
17 Cirillo's counts.

18 MS. ROBESON: I'm sorry. Did you have anything to  
19 say or --

20 MR. BROWN: This is not a closed door session, is  
21 it?

22 MS. ROBESON: Not that I'm aware of.

23 MR. BROWN: Okay.

24 MS. ROBESON: Go ahead.

25 BY MR. HARRIS:

1           Q     Okay. Continue with your discussion of Dr.  
2     Cirillo's testimony.

3           A     I'll back up just a short step.

4                     MS. ROBESON: Yes. I apologize.

5                     THE WITNESS: The Park and Planning rates are  
6     based on actual traffic counts measured at other existing  
7     townhouse developments in Montgomery County. Dr. Cirillo's  
8     rates were based on what people said they did in their  
9     travel diaries, not based on observations by others of what  
10    they actually did. There could be a difference.

11                    Dr. Cirillo also makes assumptions about auto mode  
12    splits, peak hour factors and average auto occupancies.  
13    One, of course, could derive different rates depending on  
14    what assumptions one makes. For instance, if one assumes  
15    that 44 percent auto driver mode split surveyed at EYA  
16    communities that are near transit, Dr. Cirillo's rates would  
17    be lower than the Park and Planning county-wide rates during  
18    both the morning and afternoon peak hour. In fact, they  
19    would be very close to Park and Planning's CBD rates.

20                    It was unclear to me, reading Dr. Cirillo's piece,  
21    what she means by the Silver Spring neighborhood. The  
22    Silver Spring zip codes include Cloverly, Colesville,  
23    Fairland, White Oak, Aspen Hill and other areas with travel  
24    characteristics that would be very different from the Silver  
25    Spring that is within or close to the CBD which is better

1 served by Metro and bus services and the like. Finally, not  
2 finally, but the Park and Planning rates are based on the  
3 larger sample size as I mentioned. And the Park and Planning  
4 rates, again at the risk of repeating, they're mandated by  
5 the LATR guidelines which have been adopted by the Planning  
6 Board and the rates have proven to be reliable and  
7 acceptable for over 20 years.

8 But at the end of the day, this is really of  
9 academic interest, which rates to use, because regardless of  
10 which rates one uses, the mandated rates or Dr. Cirillo's  
11 alternative rates, one would reach the same conclusions.  
12 That is that Chelsea Court would have insignificant  
13 neighborhood traffic and queing impacts and the project  
14 would pass the test for adequate public facilities.

15 BY MR. HARRIS:

16 Q A question came up as well during the testimony  
17 about length of queues on Cedar and/or Spring Street at  
18 Colesville Road and how that may or may not impact this  
19 project. Can you explain your analysis of that?

20 A Yes. After the last hearing I participated in, I  
21 did personally observe the queues on westbound, let's call  
22 it Spring Street, not Cedar Street because I think it  
23 technically is Spring Street, at Colesville during both the  
24 morning and afternoon peak hours. I observed queues form  
25 and dissipate as the signal indications turned from green to

1   amber to red and back to green again, and I observed that  
2   all of the vehicles on westbound Spring Street cleared the  
3   Colesville Road intersection during each signal cycle.

4               We also calculated the queues based on our traffic  
5   counts, the intersection geometry and the Department of  
6   Transportation's signal timings and we concluded as follows.

7   The westbound approach on Spring at Colesville has three  
8   lanes. There's a right turn lane, a through lane and an  
9   optional through left turn lane. The longest queues occur  
10   in the through and left turn lanes in the morning and in the  
11   right turn lane in the afternoon. The 95th percentile  
12   queues were computed at about 118 feet, or about five car  
13   lengths, in the morning peak hour and about 221 feet, or  
14   about nine car lengths, during the p.m. peak hour. These  
15   calculations square with what I observed in the field. The  
16   queues did not back up to Ellsworth Drive which is located  
17   about 420 feet east of Colesville.

18              Now, we expect these queues to increase across  
19   time due to pipeline projects, and they would increase to,  
20   in the morning, from the 118 to 146 feet, that is to say  
21   from five to six car lengths, and from about 221 feet to 250  
22   feet, or about 10 car lengths, during the p.m. peak hour.  
23   Chelsea Court traffic would increase these queues by a small  
24   amount, by about nine feet or less than one car length in  
25   the morning and by 11 feet or less than one car length in

1 the afternoon which is not significant. Chelsea Court will  
2 cause no queuing problems on Spring Street.

3 Q You heard some testimony today about, well, let's  
4 talk about neighborhood traffic first. No. Back up. There  
5 were several options that were shown as far as alternative  
6 access points for this site including the one that's on the  
7 schematic development plan and then the potential other  
8 options. Can you --

9 MS. ROBESON: I think that's on Exhibit 210.

10 MR. HARRIS: Thank you.

11 BY MR. HARRIS:

12 Q Have you looked at those options from a traffic  
13 standpoint and can you comment on them?

14 A Yes. Regarding neighborhood traffic impacts, I  
15 have been in the field and observed traffic conditions in  
16 the neighborhood during peak and off-peak times. Frankly,  
17 I've seen no neighborhood traffic problems. As many of the  
18 neighbors have indicated, there are no traffic problems  
19 within the neighborhood today. Even with the traffic  
20 generated by the Chelsea School, people are able to walk  
21 freely in the streets. I see this. They walk their dogs.  
22 They walk to the CBD. And part of the reason they're able  
23 to do that, walking in the street, is there's so little  
24 street traffic with the exception of the school buses in the  
25 morning, which will, and the afternoon, which will be



1 displaced by this development. Part of the reason the  
2 neighborhood traffic works so well is there are turn and  
3 access restrictions which limit the cut-through traffic to  
4 and from the CBD.

5 I've prepared a series of exhibits that  
6 demonstrate that the current traffic volumes are low and  
7 they will remain low regardless of which of these access  
8 options might be approved. With regard to the existing  
9 traffic counts, I have this exhibit. It shows the existing  
10 counts.

11 MS. SPIELBERG: Can we have a copy?

12 BY MR. HARRIS:

13 Q Do you have a copy of that?

14 A Yes.

15 MS. ROBESON: So this will be 213. Exhibit 213.  
16 And that will be existing conditions. Existing traffic  
17 counts.

18 THE WITNESS: Right.

19 (Exhibit No. 213 was marked for  
20 identification.)

21 (Discussion off the record.)

22 MR. HARRIS: That's Exhibit 213 and it's going,  
23 it's several more that we'll be introducing in a moment so  
24 we don't have to keep pestering you there.

25 THE WITNESS: I won't read literally every number

1 in these exhibits but will point to your attention that the  
2 traffic volumes on Pershing and Springvale are particularly  
3 low at 30 or fewer peak hour trips. That is to say about  
4 one trip every two minutes. Ellsworth, the traffic volume  
5 north of Springvale is 60 trips in the morning, 46 trips in  
6 the afternoon. These are two way length volumes and these  
7 are peak hour volumes, so that's about one per minute.  
8 North of Cedar, it's one to two a minute, 69 and 104. The  
9 highest traffic volume shown on this exhibit is on Spring  
10 Street itself. Again, the two way volume in the morning is  
11 about 650 and in the afternoon, it's about 830, 834 to put a  
12 fine point on it. I can't overemphasize that the  
13 neighborhood traffic volumes are very low.

14 The next exhibit, which is similar to the other  
15 exhibit that I presented earlier, shows the --

16 BY MR. HARRIS:

17 Q Hold on a minute.

18 MS. ROBESON: I'm sorry. Could you mark those as  
19 well so that --

20 MR. HARRIS: Yes.

21 MS. ROBESON: And this will be 215 which is --

22 MR. HARRIS: Wait a minute. 214 now I think.

23 MS. ROBESON: Oh, you're right. I'm sorry. Which  
24 is -- what is this?

25 MR. HARRIS: Proposed plan is what it's called.

1 MR. IRAOLA: Proposed plan.

2 MS. ROBESON: Proposed circulation plan?

3 MR. HARRIS: Okay.

4 (Exhibit No. 214 was marked for  
5 identification.)

6 THE WITNESS: You want to get all the exhibit  
7 numbers out of the way now? Maybe we can --

8 MS. ROBESON: We can do that.

9 MR. HARRIS: Okay.

10 THE WITNESS: The next exhibit would, is the  
11 Ellsworth Drive only option. Again, a circulation plan.

12 MR. IRAOLA: 215?

13 MS. ROBESON: Yes.

14 (Exhibit No. 215 was marked for  
15 identification.)

16 THE WITNESS: Next is a plan that depicts access  
17 from both Ellsworth Drive and Springvale Road.

18 MR. IRAOLA: 216?

19 MS. ROBESON: Yes.

20 (Exhibit No. 216 was marked for  
21 identification.)

22 THE WITNESS: And then finally, there's the  
23 Doggett's plan.

24 MS. ROBESON: And that's 217.

25 (Exhibit No. 217 was marked for

1 identification.)

2 THE WITNESS: Now, the numbers shown in white are  
3 the Chelsea Court trips, and I'm speaking of Exhibit 214.  
4 You'll see there are a series of numbers with blue  
5 backgrounds and red backgrounds. Those are the Chelsea  
6 Court trips, blue being inbound, red being outbound. The  
7 orange numbers are then the resulting neighborhood traffic  
8 forecasts including the site trips but not taking out the  
9 existing school trips, so these are conservatively high.

10 And again, I'm not going to read every number on  
11 this except to say that the resulting neighborhood traffic  
12 volumes are still very, very low, on the order of one every  
13 two minutes on most neighborhood streets, one a minute on  
14 Ellsworth Drive north of Springvale and the greatest number,  
15 although great is not a good adjective to describe these  
16 numbers, are on Spring Street east of Colesville Road. And  
17 you can see the pattern here. They're very low, the  
18 neighborhood street impacts.

19 Referring now to Exhibit 215, this shows the  
20 Chelsea Court traffic impacts if all access were to be from  
21 Ellsworth Street as, and no access to Pershing or  
22 Springvale. I don't have a plan that shows that but this is  
23 the traffic pattern that results, so all the traffic has to  
24 come in or out off of Ellsworth and that traffic would be  
25 decidedly oriented to Spring Street in our opinion.

1           The next exhibit shows the impact of providing  
2   access from both Springvale and from Ellsworth and again,  
3   the same pattern prevails. Low neighborhood traffic  
4   impacts. Greatest impact, although it's very manageable, is  
5   on Spring Street east of Colesville.

6           Finally, there's the Doggett plan.

7           MS. ROBESON: And that's 217.

8           THE WITNESS: 217, yes. This is very conceptual.  
9   It is meant to portray the impacts of 14 single-family  
10  homes with individual driveways on Springvale and 16  
11  townhomes with access only to Ellsworth Drive. And in that  
12  instance, all the single-family homes would be required to  
13  use Springvale Road and the single-family homes, the 14 of  
14  them, would generate 13 morning peak hour trips and 16  
15  afternoon trips.

16           Those would be introduced into the neighborhood, a  
17  greater impact on neighborhood streets but still very low.  
18  I don't mean to be disingenuous to say that this would have  
19  a great impact on neighborhood streets because again, the  
20  numbers are low just as they are in the proposed Chelsea  
21  Court project. And the 16 townhouses would generate about 8  
22  morning peak hour trips and 13 p.m. peak hour trips, and  
23  they would all be oriented to Ellsworth. So the bottom line  
24  is that whichever of these plans, should any of these plans  
25  be adopted, they would have a minor, insignificant impact on

1 neighborhood streets.

2 BY MR. HARRIS:

3 Q And did you testify that the Doggett plan would  
4 have a greater impact on the neighborhood streets than the  
5 other plans?

6 A It would have a greater impact on Springvale  
7 because it would have 14 driveways on Springvale.

8 Q Do you have an opinion as to whether the access  
9 plans that are shown here, with the exception of the Doggett  
10 plan, result in traffic conditions and access that are safe,  
11 adequate and efficient?

12 A Yes. I believe that's the case.

13 Q And does that apply to all of those alternatives?

14 A Yes, it does.

15 Q And do you have an opinion as to whether the  
16 project would meet the LATR guidelines under any of, or  
17 under all of these options?

18 A I am quite confident any of these options would  
19 meet, would pass the test for adequate public facilities.

20 Q I think I have no further questions.

21 MS. ROBESON: All right. Mr. Brown?

22 CROSS-EXAMINATION BY COUNSEL FOR OPPOSITION

23 BY MR. BROWN:

24 Q Mr. Wells, Mr. Harris just asked you about your  
25 opinion of all except the Doggett plan. Would your opinion

1 be any different if he had included the Doggett plan in that  
2 question?

3 A I think that would pass the test for adequate  
4 public facilities.

5 Q Beg your pardon?

6 A I think it would test, pass the test also.

7 Q When you talked about Ms. Cirillo, were you  
8 referring to her report or to her testimony?

9 A I have a copy of her Power Point presentation  
10 which I believe she, I was not here but I believe she  
11 delivered that at a, one of the hearings.

12 (Discussion off the record.)

13 BY MR. BROWN:

14 Q The counts on Exhibits 213 to 217, these are based  
15 on actual observations?

16 A No. They're forecasts. The traffic counts, the  
17 base, are based on actual field observations. The forecasts  
18 are just that. They're forecasts.

19 Q But you did go out in the field and do some  
20 queuing observations.

21 A Yes.

22 Q When was that?

23 A In late June, early July.

24 Q Okay. Was it on a weekday?

25 A Yes, sir.

1 Q Okay.

2 (Discussion off the record.)

3 MS. ROBESON: Mr. Millson?

4 MR. MILLSON: I'd like to ask Mr. Wells some  
5 questions if I can.

6 MR. BROWN: I'm through.

7 MS. ROBESON: Okay.

8 MR. MILLSON: Thank you.

9 CROSS-EXAMINATION BY MR. MILLSON

10 BY MR. MILLSON:

11 Q Mr. Wells, I'm sorry I missed your testimony but  
12 maybe I can ask you a few questions.

13 A I love an audience.

14 Q Have you personally visited our neighborhood?

15 A Yes, I have.

16 Q Have you driven on Colesville Road at rush hour?

17 A Yes, I have.

18 Q And you know it's a mess.

19 A I --

20 Q If you don't call it a mess, I don't know what you  
21 will call a mess.

22 A It operates within the Park and Planning  
23 standards.

24 Q You know, they are very concerned about -- they're  
25 always talking about changing the (indiscernible) on



1 Colesville. They always have plans for that, right? This  
2 is really a problem intersection. I've heard lots supposed  
3 to, nothing's happened there yet.

4 A Yeah. There is -- the State Highway  
5 Administration has an improvement scheduled for construction  
6 there this year, 2012.

7 Q So do you think there's a problem? You don't  
8 think there's a problem there?

9 A Of all the intersections we looked at, that is,  
10 that operates closest to its capacity and in fact, we found  
11 that absent an improvement at that intersection, the  
12 intersection would exceed the 1600 CLV congestion standard  
13 with the addition of pipeline traffic, much less any traffic  
14 from this project. So we were both pleased and gratified to  
15 know that the State Highway Administration is adding, I  
16 believe, a second westbound lane onto Dale at Colesville.

17 Q Well, this doesn't sound like the same  
18 intersection I have to wait at all the time.

19 A Well, interesting you bring that up. The queues  
20 on Dale are actually longer than they are on Spring Street.

21 Q Now, also, we're going to have this -- now, in  
22 terms of Spring Street, you know we're going to have like  
23 250 apartments they're building pretty much at the corner of  
24 Pershing and Spring, so that's going to make things even  
25 worse, right?

1           A     Our analysis took into account seven projects that  
2     have been approved but not yet built, and they were provided  
3     to us by Park and Planning Transportation Division Staff,  
4     and that's reflected in our analysis.

5           Q     Okay. I don't understand why you say traffic is  
6     going to be decidedly oriented to Spring Street.

7           A     The trip distribution mandated by Park and  
8     Planning Commission says the largest single destination in  
9     this neighborhood is the District of Columbia. Other large  
10    destinations are Bethesda to the west and Northern Virginia.  
11    I think those trips would be most oriented to Colesville  
12    Road at Spring Street.

13          Q     Okay. Because what I'm worried about is this --  
14                 MS. ROBESON: Now, you're looking at Exhibit 210.  
15    Which scenario?

16                 BY MR. MILLSON:

17          Q     No. E which scares me tremendously. For one  
18    thing, the arrow is coming right up practically on my house.  
19    But the other thing is, you know, you admitted the traffic  
20    plans were, you know about our traffic plan, right, because  
21    you've been talking about the exclusions, you know.

22          A     The turn restrictions, one way streets?

23          Q     Yeah.

24          A     And do not enters, yes.

25          Q     The whole plan, which I was one of the people who

1 designed it in the early '90s, was to get rid of cut-through  
2 traffic and this is going to build cut-through traffic right  
3 back in. That's what worries me. Because like let me --

4 MS. ROBESON: Well, you need to -- this is your  
5 time to ask --

6 MR. MILLSON: Okay. I'm sorry. That's all right.  
7 I've got to be careful. All right.

8 MS. ROBESON: No. It's okay. You can ask him a  
9 question.

10 BY MR. MILLSON

11 Q So don't you think that this is going to create  
12 problems, people coming out here? Where are they going to  
13 go? If they come out here, right, it means they're going  
14 that way, right?

15 A Yes. That's -- just if they --

16 Q They're going up towards the Beltway.

17 A If they turned right onto Springvale, they'd be  
18 compelled to turn left onto Pershing. If they turned left  
19 onto Springvale from that access point, they could either  
20 turn left on Ellsworth but they probably would have come out  
21 the other exit if they wanted to do that, or they could turn  
22 right on Ellsworth.

23 Q So you don't think there's going to be a lot of  
24 people heading toward the Beltway? I mean, there's, there's  
25 the Corridor and 270. There's a lot of jobs up there.

1   There's a lot of jobs on 95.  There's a lot of jobs in  
2   Virginia.  Three big job centers.  People want to get to  
3   them.  That was the problem we had before.

4           A     I, I understand.

5           Q     Huge amount of traffic on this street.

6           MS. ROBESON:  Okay.  You need to ask a question.

7           MR. MILLSON:  Sorry.

8           THE WITNESS:  As an, as a resident of Arlington, I  
9   could tell you I would never take Colesville Road from the  
10  Beltway to get here, to the Park and Planning headquarters  
11  or downtown Silver Spring.  I would take Georgia Avenue, and  
12  I think the best way to do that is to go across Spring,  
13  cross Colesville and Spring Street and turn right onto  
14  Georgia Avenue to get to the Beltway.

15           BY MR. MILLSON:

16          Q     That's what Mr. Harris said too.  All the years of  
17  living there, I've never even thought of doing that.  I  
18  mean, I always come out here and I go, I stay off the main  
19  streets until I get to Dale and go on the Beltway.  I take  
20  it.

21          A     Well, I think --

22          Q     If we could take a poll here of the people in my  
23  neighborhood and --

24           MS. ROBESON:  Okay.  Okay.

25           MR. MILLSON:  Okay.

1 MS. ROBESON: Mr. Millson, I --

2 MR. MILLSON: Sorry. I'm sorry.

3 MS. ROBESON: It's question time.

4 MR. MILLSON: Okay.

5 MS. ROBESON: Okay. Sorry. Okay. So let me ask  
6 a question.

7 THE WITNESS: I could save him a couple minutes of  
8 travel time if I suggest to --

9 MS. ROBESON: Well, you can do that.

10 THE WITNESS: -- take Georgia Avenue.

11 BY MR. MILLSON:

12 Q Let's talk about Dr. Cirillo's testimony then  
13 which I missed but I talked to her about it beforehand  
14 because when I read this County law, this County model,  
15 that's when I went and recruited her from the Traffic  
16 Department when I saw that, you know, this  $T = .48u$ . In  
17 your professional opinion, is that model the best possible  
18 model?

19 A Whether it is or isn't, my hands are tied. I must  
20 use the LATR guidelines.

21 Q I know that, but what do you think? Is that a  
22 good law? Is that the best possible law?

23 A It's, it has proven to be a reliable, workable  
24 model for those particular rates for more than 20 years.

25 Q But now we're in, what I was trying, now we're in

1 a very high traffic zone. Isn't it, isn't it, shouldn't we  
2 get the best possible model for downtown Silver Spring?

3 A I think this is a good, workable, proven model or  
4 technology.

5 Q So do you think car ownership is a critical  
6 variable in a trip count issue model?

7 A Trip generation can be related to auto ownership.

8 Q Well, but Dr. Cirillo predicted three times as  
9 many trips from a two -- I mean, it's common sense. You  
10 have a two-car townhouse, you're going to have way more  
11 trips than a zero-car townhouse. Isn't that common sense?

12 A Dr. Cirillo's data suggests that two-car  
13 households generate more traffic than one-car households  
14 and --

15 Q And more than zero-car townhouses.

16 A And her data show that three-car households  
17 generate fewer trips than two-car households.

18 Q Yes. She explained that to me. That's because  
19 you have -- the older people get -- okay.

20 MS. ROBESON: Yes.

21 BY MR. MILLSON:

22 Q Skip that. Sorry about that. I got carried away.  
23 Okay. So what's, so basically, this County model is based  
24 on an average, right?

25 A It's --

1           Q     All townhouses are, all townhouses are created  
2 equal as far as the County model.

3           A     It's based on actual Montgomery County traffic  
4 count observations.

5           Q     True but in the model. I'm not talking about the  
6 observations. I'm talking about the model and equation,  $T =$   
7 .48u. All units are equal. Two cars, no cars, five cars,  
8 one car.

9           A     I guess implicit in the use of a single rate is it  
10 is representative of a general county-wide auto ownership,  
11 income, household makeup, non-CBD transit opportunities.

12          Q     So they're all -- it's an average.

13               MS. ROBESON: I think what he's asking you is do  
14 you apply that formula to every townhouse without regard to  
15 the variables that Dr. Cirillo identified. Is that what  
16 you're asking?

17               MR. MILLSON: That's what -- exactly. You have --  
18 very well put. Maybe you should ask the rest of my  
19 questions.

20               MS. ROBESON: No. I wouldn't dare.

21               THE WITNESS: Yes. Yes, we do because we don't  
22 have a model that has, as an independent variable, income or  
23 auto ownership, nor do we typically predict how many  
24 automobiles will be owned by folks who will eventually  
25 purchase a townhouse or their income. I don't know how many

1 residents here will own only one car or no cars or three  
2 cars, or how many will earn under \$150,000 or more than  
3 \$150,000. One could have a multi-variable regression  
4 equation to estimate trips but that would require one to  
5 predict each of the independent variables when one estimates  
6 number of trips, and that ain't what's done in Montgomery  
7 County or in my 35 years of experience, in more than 30  
8 states, it is not done elsewhere either.

9 BY MR. MILLSON:

10 Q But isn't this like if you're going to sell your  
11 house, wouldn't it be like taking a County average on all  
12 house prices and then making that your, the price? You're  
13 not taking into account --

14 A I think there's a --

15 Q -- how many bedrooms you've got.

16 A There's no comparison between house prices and  
17 trips.

18 Q Well, my point is that you wouldn't want, you'd  
19 want to count how many bedrooms you had and I think -- here  
20 we have two-car garage townhouses and these are being  
21 averaged out against zero-car garage townhouses. In other  
22 words if I was, if I was --

23 MS. ROBESON: Well, why don't you ask this. Why  
24 don't you say --

25 MR. MILLSON: Go ahead. Go ahead.



1 MS. ROBESON: Simply say would a zero-car, what if  
2 it had no garage, you would apply the same formula. Now,  
3 you jump in if I'm saying it wrong.

4 MR. MILLSON: That's a perfect -- once again, you  
5 said it perfectly.

6 MS. ROBESON: Would you apply a zero-car, would  
7 you have to -- would you be required to apply the same  
8 formula to a townhouse that had no garage?

9 THE WITNESS: Does it have no garage but does it  
10 have a surface parking lot?

11 MS. ROBESON: Just, we'll just say no garage.

12 THE WITNESS: I'm wondering what color is the sky  
13 in this world.

14 MS. ROBESON: No, no. That's not the question.  
15 You're an expert and you can answer a hypothetical. So  
16 hypothetically --

17 THE WITNESS: Hypothetically then --

18 MS. ROBESON: -- isn't it true?

19 THE WITNESS: Hypothetically, this rate would  
20 apply to a broad range of townhouses, a broad range of  
21 number of parking spaces per unit, a broad range of income,  
22 a broad range of transit-opportunities outside of the CBD.  
23 It is true that this formula would apply to all of those  
24 instances.

25 MS. ROBESON: Okay.

1           MR. MILLSON:  You're doing a much better job  
2 simply finishing.

3           MS. ROBESON:  No.  I --

4           MR. MILLSON:  Can I just give you my questions?

5           MS. ROBESON:  No.

6           MR. MILLSON:  That would be really better.

7           MS. ROBESON:  You continue to ask your questions.

8           MR. MILLSON:  All right.  All right.  Thank you.

9           BY MR. MILLSON:

10          Q       So in other words, yes.  I mean all, zero cars,  
11 two cars, they all -- the number of trips outputted is the  
12 same, is that correct, .48, for example, in the morning?

13          A       That's the state of the practice in Montgomery  
14 County.

15          MS. ROBESON:  Yes.  So your answer is yes,  
16 correct?

17          THE WITNESS:  Correct.

18          BY MR. MILLSON

19          Q       So my feeling is that okay, we used this formula  
20 for a long time but most of building that's going on up  
21 country.  Now they're building townhouses, Mr. Youngentob is  
22 building townhouses in places like Silver Spring where  
23 there's a huge amount of traffic.  Don't we need a better  
24 traffic model under these circumstances?

25          A       I think the model we have is perfectly adequate

1 for the purpose at hand, and I would say it's at least as  
2 good as Dr. Cirillo's alternative. Again, if I would apply  
3 the same logic that is being attempted to be applied to the  
4 Park and Planning rates, Dr. Cirillo's rates would apply to  
5 all townhouse projects that had a 70 percent auto driver  
6 mode split. All that had a peak hour factor of .92. All  
7 that had an average vehicle occupancy of 1.15. Let's take  
8 the auto driver mode split alone. EYA knows from their own  
9 communities that are close to transit that 70 percent auto  
10 driver is not the right number. The right number is 44  
11 percent. That's what they have measured at their projects  
12 in transit, transit areas.

13           So if you'll take Dr. Cirillo's method of  
14 computing trip generation rates and use the 44 percent auto  
15 driver mode split, you get virtually an identical answer to  
16 the Park and Planning Silver Spring CBD rates which, by the  
17 way are lower than what we used in this instance.

18           Q     Do you think the behavior of residents on  
19 Springvale Road is going to be quite close to the behavior  
20 of people in townhouses as far as auto driver, number of  
21 people who drive, number of people that don't drive?  
22 They're just across the street.

23           A     I think they'd be pretty similar in that  
24 presumably, what attracts a townhouse owner and a single-  
25 family owner to this particular project would be, in part,

1 the transit opportunities offered by this site.

2 Q That's what I thought too and so I made a, I  
3 already told the other people about it but you weren't here,  
4 I made a -- before I met Dr. Cirillo, I made a survey of the  
5 people on my street, Springvale Road, and I found to my  
6 surprise that 90 percent of the adults were driving and so  
7 that's why I got --

8 MS. ROBESON: So you need to follow up with a  
9 question.

10 MR. MILLSON: Yeah.

11 BY MR. MILLSON:

12 Q So but that would lead to, I mean, I don't know.  
13 That seems to lead to quite a few more than even Dr.  
14 Cirillo's model. It's quite -- I didn't know what to make  
15 of it. It's a lot of drivers.

16 MS. ROBESON: And do you have a question in there?

17 MR. MILLSON: Yeah.

18 BY MR. MILLSON:

19 Q It seems like these numbers -- okay. I don't know  
20 what to say. I guess I don't.

21 MS. ROBESON: I think your question is that if you  
22 extrapolate the percentage of auto driver split from your  
23 sample and apply it to the townhomes --

24 MR. MILLSON: Yeah. I mean, I don't know.

25 BY MR. MILLSON

1           Q     The question is --

2                   MS. ROBESON:  If we were to tell you and then  
3 after this, you, if we were to tell you that Mr. Millson  
4 took a sample study of, was it 33 or 23?  Twenty-three homes  
5 along --

6                   MR. MILLSON:  I forgot now, yeah, because it was a  
7 long time ago.  Month ago.  How long ago was that?

8                   MS. ROBESON:  Well, I don't know.

9                   MR. MILLSON:  That's a long time.

10                  MS. ROBESON:  You have to help me more than that.

11                  MR. MILLSON:  I did the whole street.

12                  MS. ROBESON:  But he took a statistical sampling  
13 or a sample, a survey sample of where people drove and --

14                  MR. MILLSON:  Or how many people drove.

15                  MS. ROBESON:  -- the percentage of --

16                  MR. MILLSON:  So 90 percent of the people drove of  
17 the adults, of the residents on the street.

18                  MS. ROBESON:  And would that change your opinion?

19                  THE WITNESS:  I don't think one would have to be a  
20 statistics professor to understand that that size of sample  
21 is just too small to draw an inference like that.

22                   BY MR. MILLSON:

23           Q     But it's a small street.  I didn't have much  
24 choice.

25           A     Well --

1 MS. ROBESON: Well, okay. You need to stick with  
2 questions, okay?

3 MR. MILLSON: Okay. Okay.

4 BY MR. MILLSON:

5 Q What about, so what about off-peak trips? So this  
6 model only counts peak trips.

7 A That's right.

8 Q Now, Dr. Cirillo, one of her main points was well,  
9 things have changed, you know, now we have two family, three  
10 family, maybe three drivers, and her model seemed to suggest  
11 that you had to count off-peak trips as well. So, yeah.

12 A Again, this standard in Montgomery County and  
13 almost all jurisdictions is to evaluate traffic impacts for  
14 the peak hours because by definition, that's when traffic  
15 congestion, if there is any traffic congestion, that's when  
16 it usually materializes is during peak hours. So we look at  
17 impacts on the most critical times of day.

18 Q We have covered all my questions here so I guess  
19 that's -- I just, she had 1,595 observations. I can't  
20 remember how many Park and Planning but it's a little  
21 confusing to me. The Park and Planning observations were  
22 from the County, is that right, not just the Silver Spring?  
23 The entire County, right?

24 A That's correct.

25 Q And that's what these formulas are based on.

1           A     Correct.

2           Q     Okay.

3           A     Dr. Cirillo's sample size for Silver Spring was  
4   260.

5           Q     Yeah. From Silver Spring, but she has 1,500 -- it  
6   wasn't her. It was Baltimore Metropolitan Council's sample.  
7   Okay. That's not a question either. Okay. I think I've  
8   come to an end here.

9           MR. MILLSON: I want to thank you for helping me  
10 out with the questions.

11          MS. ROBESON: All right. Any redirect based on  
12 those questions?

13          MR. HARRIS: No, thank you.

14          MS. ROBESON: All right. You can be excused.

15          THE WITNESS: Thank you.

16          MR. HARRIS: Thank you.

17          MS. ROBESON: Now, I noticed I didn't print out, I  
18 got an email during the break about greenspace calculations.  
19 Is that from Cindy?

20          MR. HARRIS: About, I'm sorry, what calculations?

21          MS. ROBESON: From Ms. Bar?

22          MS. BAR: Yes.

23          MS. ROBESON: Is that in the record yet?

24          MR. BROWN: 204.

25          MS. BAR: Yes. It's 204.

1                   MS. ROBESON: Okay. Maybe I just didn't get a  
2 chance, I missed it this morning. That's already in the  
3 record?

4                   MS. BAR: It's 204, yes.

5                   MS. ROBESON: Okay. I just wasn't sure. All  
6 right. So, Mr. Harris, your next witness?

7                   MR. HARRIS: Mr. Youngentob is coming back.

8                   MS. ROBESON: Hi. Good afternoon again.

9                   MR. YOUNGENTOB: Good afternoon.

10                  MS. ROBESON: You're still under oath.

11                  (Witness previously sworn.)

12                                 DIRECT EXAMINATION

13                  THE WITNESS: Ms. Robeson, I thought long and hard  
14 how I was going to start back into my testimony because I  
15 think it's how many, it's only been five actual working days  
16 that we've been over this but it seems like I first sat here  
17 probably a month-and-a-half ago maybe when we started. And,  
18 you know, we've heard lots of testimony around a variety of  
19 issues and there were times, honestly, I said wow, you know,  
20 it this really worth it, you know, for everything that we're  
21 going through. And at the same time, I think we've all  
22 become somewhat fond of each other, we've shared some laughs  
23 and I think developed a lot of mutual respect for both  
24 sides, not dissimilar from at least where we thought we  
25 started with this process.



1           And I think that's where I probably want to begin  
2   is that, you know, I think how did we get here and I think I  
3   testified in my first presentation that we were actually  
4   approached by the Chelsea School on this particular site.  
5   We did not go seeking out to assemble or redevelop  
6   properties in downtown Silver Spring in this area, and I  
7   believe that the Chelsea School came to us because they felt  
8   we represented a responsible alternative to the community  
9   from another school or from a school being located on the  
10   property.

11           And I think part of that was based on the history  
12   they had with the community and the testimony that we've  
13   seen with regard to the special exception and the way the  
14   community fought the special exception and challenged issues  
15   and obviously, we've heard testimony through the course of  
16   the four, five days that suggest today, none of those issues  
17   are problems anymore, that the school is totally compatible  
18   both visually and operationally.

19           And as Aakash gets this set up, when we start  
20   looking at a plan or we started this process, we did go out  
21   to meet with the community. We met with the existing head  
22   of SOECA at the time, we went to Park and Planning, we  
23   researched kind of what was happening in the surrounding  
24   areas and I personally don't necessarily focus on, on  
25   zoning. I don't say what is the right zone for this site.

1 I focus on the surrounding properties as a land planner, as  
2 a developer, I look at what's happening in the community and  
3 I try to come up with a solution that hopefully meets the  
4 needs of everybody involved and as we've seen as we've gone  
5 through this process and as I'll talk about in more detail,  
6 there are tremendous amounts of competing interests that are  
7 talking about the solution for this particular site, and  
8 that's really where we start.

9           We try to find what is the best compromise in  
10 terms of all the different uses and clearly, one of the  
11 issues here was the Chelsea School and what their  
12 alternatives were and what they needed from an economic  
13 value standpoint to be able to relocate and what their  
14 economic alternatives were. We, obviously, looked at the  
15 traffic implications. We looked at the surrounding land use  
16 and we tried to come up with a plan that would be as  
17 compatible as possible given all those competing uses.

18           I want to start -- as others have presented  
19 photographs of a variety of examples of both townhouse  
20 projects in and around Silver Spring and have made  
21 assumptions about townhome residents and single-family  
22 residents and how they interact, I wanted to start with --

23           (Discussion off the record.)

24           THE WITNESS: I wanted to start with some  
25 photographs of some examples of where EYA has built

1 townhomes adjacent to or in a similar relationship to  
2 single-family homes. The first couple pictures are of a  
3 community in --

4 BY MR. HARRIS:

5 Q Excuse me a second.

6 A Yes. Sorry.

7 Q Do you have extra copies of that by any chance?

8 Again, I --

9 A We do.

10 Q Okay.

11 A We have, we have these. So we don't have CDs. We  
12 do have hard copies for everybody.

13 MS. ROBESON: Hard copies are fine.

14 THE WITNESS: This is a community --

15 MS. ROBESON: Okay. Just before --

16 THE WITNESS: I'll wait a second.

17 MS. ROBESON: Let's get it marked and in and then  
18 you can --

19 THE WITNESS: Sure.

20 MS. ROBESON: So this will be EYA, photos of EYA  
21 compatibility?

22 THE WITNESS: Correct.

23 MS. ROBESON: Okay. Hold on one second. This is  
24 218. And we'll just make them, I'm not going to, we'll make  
25 them, the top sheet will be 218 and then each sheet will be

1 218A, B, C.

2 THE WITNESS: That's perfect.

3 (Exhibit No. 218A through P were marked  
4 for identification.)

5 THE WITNESS: So this is Fallsgrove. It's  
6 actually in the City of Rockville and went through a City of  
7 Rockville Master Plan approval process, and this is actually  
8 a 250-acre development. Although it's in Montgomery County,  
9 it was under the jurisdiction of the City of Rockville. On  
10 the left side of this photograph are townhouses not  
11 dissimilar from the height and scale of what's being  
12 proposed for the Chelsea School. On the right side of the  
13 street are single-family homes that were developed by Pulte.  
14 The townhouses on the left-hand side, you know, sold in the  
15 \$550,000 range, the single-family homes on the right-hand  
16 side sold for close to \$900,000 and they've all escalated in  
17 price since then.

18 But my point about this photograph is the  
19 compatibility of townhouses and single-families. It happens  
20 all the time. It happens throughout the County. It's the  
21 same, you know, single-family land use designation, as Mr.  
22 Iraola has pointed out and others, with regard to how the  
23 County treats single-family attached and detached housing.

24 This next photograph is another photograph from  
25 Fallsgrove. I want to mention, too, the townhomes in

1 Falls Grove were developed on an average of about 24 units  
2 per acre. The singles are obviously less than that. There  
3 are a variety of singles. There are some singles that are  
4 small lot singles that are developed on lots that are around  
5 5,000 square feet such as the ones here on the left side of  
6 this photograph, not dissimilar from the lot sizes that  
7 exist in the Chelsea neighborhood today, and there are  
8 single-families that are developed on quarter acre lots such  
9 as the Pulte homes in the previous photograph.

10           Again, I think what at least EYA tries to do from  
11 a compatibility standpoint is really pay close attention to  
12 the detail of design. I know there was a lot of testimony  
13 talking about what makes compatibility. Compatibility, I  
14 think Mr. Iraola had eight particular characteristics. I  
15 don't know if there's any fixed, you know, liturgy that says  
16 this is what make something compatible but clearly, even, I  
17 believe it was Mrs. Morgan who testified earlier today, that  
18 its scale, its mass, its architecture, its how they relate  
19 to the street, its how they relate to each other, and those  
20 are the same characteristics that we take into account when  
21 we look at design of all of our communities.

22           I'm just going to skip through these relatively  
23 quickly. Again, here's a similar situation within  
24 Falls Grove. Single-family on the left, townhouses straight  
25 back in the distance, townhouses on the right-hand side.

1 This is the land plan for Fallsgrove and again, I mean, the  
2 relationship, and I'm pointing to I guess it would be  
3 Exhibit 218. I don't know exactly which --

4 MS. ROBESON: This would be --

5 MR. HARRIS: D I think as in David.

6 MS. ROBESON: -- D, yes.

7 THE WITNESS: But the relationship of where you  
8 have single-family homes, townhouses, townhouses  
9 interconnected and all intermingling. These people, they do  
10 share cups of sugar, they do socialize with each other.  
11 They are not part of a separate class of people in the  
12 townhouses as they are in the single-family as has been  
13 suggested in previous testimony. Thanks.

14 The next photograph I'd like to go to, what I  
15 guess will be E, and I'm going to put up at the same time  
16 the site plan for, so I'm putting up -- it's interesting.  
17 This is stamped by the Zoning Office but it actually doesn't  
18 have an exhibit number on it which struck me, but it's the  
19 site plan, the illustrative site plan.

20 MS. ROBESON: Okay. Is that 30A?

21 MR. HARRIS: That may be 30A, non-duplicate. I  
22 don't know. Let's see. No.

23 THE WITNESS: It's basically, it is the  
24 illustrative site plan, rendered landscape drawing.

25 MS. ROBESON: If you don't mind --

1 THE WITNESS: We can use one --

2 MS. ROBESON: -- I just want to take a moment and  
3 make sure that it is in the record because I'm not seeing  
4 it.

5 THE WITNESS: If it's not, then I'd like to put it  
6 in the record.

7 MS. ROBESON: Well, that's --

8 MR. HARRIS: I think it might be 30A.

9 THE WITNESS: The original.

10 MS. ROBESON: That's --

11 MS. BAR: I don't think so. That's the revised  
12 plan.

13 MS. ROBESON: That's --

14 MR. HARRIS: Oh, oh. I beg your pardon. I see  
15 what you're saying, yes. Right.

16 MS. BAR: It's the same plan but different --

17 MS. ROBESON: But this is the one with the  
18 landscaping and everything shown on it.

19 THE WITNESS: Yeah. It's on the back of 30A  
20 duplicate so I don't know if that's --

21 MS. ROBESON: Well, I'll tell you what. I don't  
22 see it in here.

23 THE WITNESS: Okay.

24 MS. ROBESON: So out of an abundance of -- if we  
25 have too many exhibits, but I don't see it in the record.

1 THE WITNESS: Okay. So --

2 MS. ROBESON: Let's --

3 MR. HARRIS: Exhibit 219 I think.

4 MS. ROBESON: Let's see what that is.

5 MR. HARRIS: I guess it's a rendered site plan.

6 MS. ROBESON: Yes.

7 (Exhibit No. 219 was marked for  
8 identification.)

9 MS. ROBESON: Okay, Mr. Youngentob. I know you  
10 were on a roll.

11 THE WITNESS: That's okay. I have --

12 MS. ROBESON: So let's get you back rolling.

13 THE WITNESS: I have all afternoon. So what I  
14 wanted to focus on here was where this idea of single-family  
15 facades or the idea of ending these townhouse strings  
16 perpendicular to Springvale and how it will relate to the  
17 community and how we felt, in our design expertise, that  
18 this was the way to create a very effective compatibility  
19 relationship, compatibility relationship with the community.

20 We first did this back in, I believe it was  
21 2003/2004 in the Arlington neighborhood of Clarendon and the  
22 photograph on the right shows the Clarendon Park community  
23 that we've referenced many times before, and on the left-  
24 hand side of this photograph were the existing, is the  
25 existing single-family homes that were there at the time



1   that we came in for the approval of the townhouses of the  
2   Clarendon Park development.  Clarendon Park is developed at  
3   28 units per acre as opposed to the 14.67 that we're talking  
4   about at Chelsea.

5               What we did in this particular situation is we  
6   lined up, I believe there's actually seven single-family  
7   facade townhouses facing a row or opposing street of single-  
8   family homes and you get the flavor now of how this  
9   development looks six years after it's been completed.  The  
10  street trees have matured.  The houses, partly because  
11  they're actually significantly higher than the ones we're  
12  proposing at Chelsea, these units were actually at 45 feet  
13  tall as opposed to 35 feet tall, are visible behind the  
14  street trees, but you start to see how these single-family  
15  facades line up down the street.

16              This is another view of that exact street section  
17  where this is a single-family facaded townhouse with the end  
18  condition facing out to the street.  Another one here.  This  
19  development actually has --

20              MS. ROBESON:  You're looking at --

21              THE WITNESS:  I'm sorry.

22              MS. ROBESON:  Let me get --

23              THE WITNESS:  This would be F.

24              MR. HARRIS:  Yes, F.  Frank.

25              THE WITNESS:  219F.

1 MS. ROBESON: 218F. Go ahead.

2 MR. HARRIS: 218F, yes.

3 THE WITNESS: 218F. This would be a similar  
4 relationship to what we were proposing here at Chelsea with  
5 the single-family porches, townhouses with front doors and  
6 porches facing out towards Springvale. Here, they approach  
7 the single-family homes across the street in the Clarendon  
8 neighborhood. And again, front porches, significantly in  
9 higher height than being proposed. Our houses are being  
10 proposed at 10 feet less at Chelsea, but you get the sense  
11 of how these units interrelate across the street. Very much  
12 like the existing single-families.

13 And the point I was going to make is the  
14 difference here was the alleys actually come out onto the  
15 street, unlike what we were doing here with all the alleys  
16 coming out onto the private street. At Clarendon, these  
17 alleys are actually punched through out to the neighborhood  
18 breaking up the streetscape. The other thing that's  
19 different is the streetscape itself here is only eight feet  
20 in width so you have basically room for a single row of  
21 street trees and a four-foot sidewalk as opposed to the, I  
22 believe it's 26 feet that we're proposing to set back from  
23 the property line in addition to the right-of-way area.

24 So here we are proposing here at Chelsea to have  
25 the double row of street trees, the sidewalk and the much

1 greater setback, create this linear park, you can see here  
2 that is it much narrower but still, they interrelate and are  
3 extremely compatible today. This is actually a shot, and  
4 this is done with a wide-angle lens so you do get a little  
5 bit of distortion. This would be 218G.

6 MS. ROBESON: G.

7 MR. HARRIS: G.

8 THE WITNESS: Where you start to now pick up the  
9 multiple facades. This is showing four of the seven that  
10 are along that street, and you're actually looking into  
11 what, the landscape courtyards. And this courtyard is  
12 actually elevated so again, it's, I'd say, less compatible  
13 than what we're proposing at Chelsea because at Chelsea,  
14 we're proposing that these courtyards would be flush with  
15 the street along Springvale and not have stairs coming in.  
16 You just come straight in those courtyards. But again, you  
17 start to get a feel for how these units line up. You can  
18 get a sense for what happens as the townhouses continue on  
19 into the string and how they are blocked by landscaping but  
20 also, the relationship of those units and how the  
21 perpendicular nature to the street really does, I think,  
22 respect the sensitivity and the scale and mass to the, to  
23 the single-families.

24 This, I tried to get a sense of what it would feel  
25 like --

1 MS. ROBESON: This is 218H.

2 THE WITNESS: 218H. If you are on, I guess this  
3 is Springvale Court.

4 BY MR. HARRIS:

5 Q Lane.

6 A This is lane, Springvale Lane. If you were back  
7 here and you were in front of these single-family homes,  
8 what would it look like if you were looking down that lane  
9 and saw that townhouse at the end? Well, this is a very  
10 similar situation where you have a perpendicular street  
11 that's coming down. And again, this is the facade of the  
12 townhouse that, in effect, reflects very much of the  
13 architecture, the character, the scale of the single-family  
14 homes in the neighborhood.

15 Just continuing to move around the site, at  
16 Clarendon, one of the things that we did was we created a  
17 very large community open space as well and one of the  
18 things you try to do in townhouse communities nowadays is  
19 consolidate open space and bring it together in as large of  
20 an area as possible as opposed to these individual postage  
21 stamp sized backyards that people are referring to as some  
22 of the townhouses that were done back in the '70s and '80s,  
23 that was the way things were done back then. Today, what is  
24 kind of the newer, more urban style of townhome development  
25 is to concentrate the open space.

1           So we created a large public park open space not  
2   dissimilar from what's being proposed at Chelsea today.  
3   These are single-family homes that are across the street  
4   from it and in this case, these units, I think Mr. Iraola  
5   testified that we were somewhere in the 200 and some odd  
6   feet range back. I don't think it's that great in this  
7   general vicinity. This is probably somewhere in the 150 or  
8   160-foot range setback from Pershing but this is not  
9   dissimilar from what you would feel here. And you do, here,  
10   have a setback with a row of units that are facing you but  
11   because of the open space and the park and the relationship  
12   and style, architectural style, this also works extremely  
13   well in the Clarendon situation because of the open space  
14   that's creating that separation.

15           This is a situation where you have single-families  
16   on both sides of the street and a townhouse, again, at the  
17   end of that street and the park here off to the right and  
18   townhouses in the distance as they come together.

19           MS. ROBESON: Okay. When you say this --

20           THE WITNESS: I'm sorry. This would be 218 --

21           MS. ROBESON: I think that's J.

22           THE WITNESS: -- J.

23           BY MR. HARRIS:

24           Q     J, yeah.

25           A     218I, J, K.

1           Q     K.

2           A     K. I wasn't very good at (indiscernible). But  
3 again, I guess what I want to point out here too is EYA has  
4 an incredible sensitivity to try to create architecture that  
5 reflects the architectural style of what's happening in the  
6 community and although we don't have final architecture for  
7 the Chelsea site today, an example of our commitment to  
8 that, an example of what we've talked about and what we've  
9 rendered and shown is exactly what happened here on  
10 Clarendon where we had a Craftsman style existing  
11 architecture, and one of the advantages of this neighborhood  
12 is there was a much greater consistency in the existing  
13 neighborhood of one style that we could tie into.

14                     Fortunately or fortunately, the Chelsea  
15 neighborhood, I think, is a little more eclectic, and I'll  
16 go over it with you to try to reflect more of that eclectic  
17 nature of the architecture but here, again, you know, this  
18 is not a typical townhome that you would see built by a  
19 Pulte or a Ryan. This is something that EYA specializes in,  
20 townhomes that, you know, include front porches, rooftop  
21 terraces or outdoor space, you know, very highly detailed  
22 facades, sometimes just straight siding and simplistic  
23 because that's exactly what's happening in the community  
24 itself and that's where that sense of compatibility and  
25 relationship exists.

1                   This would ve --

2                   MS. ROBESON: 218L.

3                   THE WITNESS: L. Thank you. This is actually a  
4 view from the courtyard looking, one of the courtyards  
5 basically looking from this angle, looking back out towards  
6 the single-family homes across the street. And what we  
7 typically do in our courtyards is the units face out onto  
8 the courtyard on both sides and you see, again, this is a  
9 wide-angle so there's a little bit of distortion but it was  
10 the only way to capture both sides of the courtyard at one  
11 time and yes, they don't look like this day one because the  
12 landscaping has time to mature but we do plant all the trees  
13 and all the bushes and over time, they grow up.

14                  And the reality is today, you really can't even  
15 see the single-families across the way. You have a slight  
16 glimmer kind of through the trees, through the street trees,  
17 and I would suggest that at Chelsea, it will be even less  
18 because of the heavily natured landscaping of that linear  
19 park where you have double rows of street trees. But here,  
20 you get a sense of the highly landscaped, highly detailed  
21 with pavers in the courtyard, things like that to help, to  
22 help deal with that compatibility, sensitivity issue.

23                  These particular strings are one, two, three,  
24 four, five, six units in depth with the alleys facing out.  
25 These are the single-family homes across the street and

1 these are the one, two, three, four, five, six and one more  
2 down here, seven, townhome facades that face across those  
3 streets. This is the open space parkland of this area and  
4 again, if you look at these strings here, one, two, three,  
5 four, five, six, these include MPDUs so they're slightly  
6 narrower. One, two, three, four, five, six, seven, eight.  
7 So the six units are not dissimilar in length from the depth  
8 of what's happening here.

9 I also, again, tried to understand whether or not,  
10 you know, this situation existed in Silver Spring and I  
11 think --

12 MS. ROBESON: And we're looking at 218N.

13 THE WITNESS: 218N. Thank you. And we do have  
14 many examples where in downtown Silver Spring, although  
15 they're not new, they're not necessarily done, you know, to  
16 lead standards and current development standards today but  
17 there are plenty of examples. And this is just off of  
18 Spring Street where you do have existing townhouses in  
19 various string lengths and various configurations. These  
20 actually don't have parking in the fronts of units, some do,  
21 that are adjacent to existing single-family homes. And  
22 again, I think it just points out that single-family  
23 residents and townhome residents are not dissimilar. They  
24 live socially quite well together.

25 This is another example, this would be 218 --



1 BY MR. HARRIS:

2 Q O.

3 A -- O, thank you, where not too far, actually, this  
4 is in Chevy Chase, Maryland. I'm sorry. Chevy Chase, D.C.  
5 I believe it's 33rd Street where again, you have a similar  
6 situation of single-family homes across the street from  
7 townhouses. We did the same treatment here with a slightly  
8 different architectural treatment. This is more of a  
9 Victorian style. We're fronting some Victorian elements of  
10 the single-family neighborhood. These units are again, are  
11 much taller than what's being proposed at the Chelsea School  
12 but it's the same relationship of single-family facades  
13 across the street from single-family homes. And again,  
14 these strings of units are one, two, three, four, five units  
15 deep.

16 MS. ROBESON: And you're looking now at --

17 MR. HARRIS: P.

18 MS. ROBESON: -- 218P.

19 THE WITNESS: Correct. The last thing I wanted to  
20 include in my PowerPoint presentation are some examples of  
21 the streetscape treatments and relationships to the street  
22 and elevations at various densities. We've heard about  
23 Cameron Hill many times. Most people show the photograph of  
24 the rear alleys because it helps to make the point of how  
25 bad they think it is. I would flip this around and say the

1 reality is is what you relate to is the streetscape. You  
2 relate to the front facades of the units. The fact that we  
3 don't have garage doors along all the fronts and curb cuts  
4 everywhere lined up, you actually have very strong  
5 streetscape elements. This is developed at a density of 24  
6 units per acre and again, I think, you know, relative to the  
7 Chelsea density of 14.67, it's a significant reduction in  
8 the overall density.

9           This is National Park Seminary. Again, just to  
10 give you a flavor of different architectural styles. This  
11 is not too far from the Chelsea site, developed at a density  
12 of 20 units per acre.

13           This is Harrison Square down in Washington D.C. in  
14 the U Street corridor. This is developed at a density of 40  
15 townhouses per acre. Again, a more urban location but the  
16 same point, not dissimilar. If you took the general area of  
17 the CBD of Silver Spring and if this was in the CBD, Chelsea  
18 School, then I could see a much higher density but being on  
19 the outside of that CBD, adjacent to it, the relationship of  
20 40 units per acre versus 14.67 units per acre, you know.

21           So many times I heard the density being described  
22 as just massive density for townhouses or maximizing  
23 townhouse density everywhere. The reality is it's probably  
24 one of the lowest townhouse densities that we've ever  
25 proposed in any of our projects and that really came from

1 studying the site early on and not going at the maximum  
2 density of the R-15 which would have allowed us to do 96  
3 units but coming forward right up front with a plan at 76  
4 units because we felt that that was more compatible with the  
5 surrounding neighborhoods.

6 Here is Bryan Square in the District developed at  
7 a density of 26 units per acre. This was the Courts of  
8 Chevy Chase that I just showed in terms of the single-family  
9 facade relationship in Chevy Chase developed at a density of  
10 29 units per acre.

11 And then back to Clarendon, these are the units  
12 that actually face the park. These units here would be  
13 similar to units that would face the park here but again, we  
14 don't have the differences in grade like we're showing in  
15 this particular, this would be a single-family facade,  
16 again, with the changes in the elevation that don't exist at  
17 Chelsea because of the ability to step these units down the  
18 hill allows us to bench those units into the hillside. So  
19 that concludes, I guess it would be my use of 218.

20 This issue of compatibility I think is, it's one  
21 of the key issues of this case and I think that, you know,  
22 we believe that the plan that we've created is actually  
23 incredibly sensitive to the community and regardless of the  
24 density at 77 units or if we were to use Mr. Brown's plan or  
25 Mr. Doggett's plan, my sense is that this plan would

1 actually be as compatible, if not more compatible, than any  
2 of the alternatives that the opposition has shown.

3           What I want to go to next, there's been a lot of  
4 talk about the nature of townhome owners or ownership and,  
5 you know, as I sat listening to, you know, so much of the  
6 testimony, I just, you know, I have a lot of anecdotal  
7 experience in dealing with my homeowners and EYA is proud to  
8 say we just delivered our 3,000th townhome unit the past  
9 month. We've done 32 communities and we've gotten to know  
10 our buyers and we've gotten to know what they believe in,  
11 what they understand, why they're willing to pay a premium  
12 to live in our units. And so I said, you know, to our  
13 marketing folks, I said, you know, help me. Can we go out  
14 and survey our residents. Can we find out what they really  
15 think relative to these issues, can we find out about their  
16 traffic habits, can we find out about their car ownership  
17 habits. And so we went ahead and recently asked, two weeks  
18 since the last hearing, we did a survey.

19           MS. ROBESON: Okay. So this will be 220.

20                           (Exhibit No. 220 was marked for  
21 identification.)

22           MS. ROBESON: And this will be -- can you describe  
23 what you would call it?

24           THE WITNESS: We can call it --

25           MS. ROBESON: Oh, lifestyle survey.

1           THE WITNESS:  -- an EYA lifestyle survey.  And  
2   this was sent by email to approximately 350 homeowners and  
3   by direct mail to about 350 homeowners.  It's probably not  
4   surprising to say that we got a higher response rate from  
5   the email version of it than from the written direct mail  
6   response but of the 700 respondents, we had, I believe, 155  
7   responses.  I'm not a statistics expert but we felt that a  
8   20 percent sample of the total pool and 155 responses, or  
9   142 that are actually counted, was actually a pretty good  
10  sample size to try to get a sense to answer some of the  
11  questions raised by Mrs. Cirillo, or Ms. Cirillo, and some  
12  of the assumptions that are being made by the people who are  
13  opposed to the townhouses being located next to them.

14           So demographically, we asked, we basically just --  
15  the top of this are the neighbors, neighborhoods that we  
16  surveyed.  The ones that we included were all neighborhoods  
17  that had an orientation towards transit, towards Metro  
18  transit.  They all have access to buses but these were ones  
19  that had a Metro orientation, basically were of similar or  
20  closer distance to Metro, so they were all within a half  
21  mile of a Metro stop.

22           When you start to look at the demographics, it's  
23  not surprising to me that 62 percent of our respondents  
24  basically describe themselves as a married couple or some  
25  type of partnership with no children.  There were some

1 single adults and there were approximately 17 percent of the  
2 families living in our homes that have described themselves  
3 as having school-age children living in the home. The rest  
4 are relatively insignificant.

5           The second question we focused on was if you have  
6 children, how many, you know, live with you. Again, you  
7 know, the majority was that there are no kids living in the  
8 house but if there was, it was typically just one child,  
9 potentially two children.

10           There were a number of suggestions, you know, in  
11 some of the testimony that, you know, townhouse residents  
12 are transient, they don't take the same, you know, kind of  
13 sense of responsibility in their community and so we wanted  
14 to know how long people expected to live in their units, you  
15 know, were they a long-term member of the communities. And  
16 again, I believe it's close to 80 percent of our residents  
17 expected to live in their houses between five and, you know,  
18 plus years with 60 percent eight years or longer. And I'd  
19 like to point out that I think that Fannie Mae measures the  
20 average length of people in single-family homes at  
21 approximately seven years and so again, I don't see our  
22 residents being any different than those single-family  
23 residents.

24           Then we started to get into the meaty questions as  
25 it relates to traffic and car ownership and I'll be honest,

1   you know, some of this stuff I really didn't know before we  
2   did the survey and I found it fascinating that 52 percent of  
3   our residents who responded to the survey only have one car,  
4   42 percent do have two cars and there is those occasional,  
5   you know, four people out of 142, that have more than, more  
6   than two cars.

7               What I found fascinating, you know, in response to  
8   a lot of the questions that people have asked about, you  
9   know, one-car parking and how that relates to car ownership,  
10  45 percent of the respondents have one car and they park in  
11  a one-car garage, 28 percent actually have two cars and park  
12  in a two-car garage, but this is what I thought was really  
13  telling is that there's 27 percent of 26 percent of the  
14  people that actually buy a townhouse with a two-car garage  
15  but only have one car that they park in it. And I think  
16  that addresses some of the concerns that just because you  
17  have a two-car garage doesn't mean that you're automatically  
18  going to have two, three, four or five cars.

19              You know, the reality is that people who are  
20  living close to Metro are buying and paying that premium  
21  because their lifestyle choices have changed. They're  
22  making the decision, you know, I believe Mr. Millson  
23  testified that his survey of his residents on his street,  
24  you know, would indicate a very different Metro ridership or  
25  usage. I don't know, you know, how long each of those

1 people have lived in their particular houses but I know a  
2 lot of them have lived there an awful long time. It's  
3 possible that, you know, people buying today who are willing  
4 to pay that premium may have a very different behavioral  
5 pattern than somebody who bought 20 or 30 years ago in that  
6 location.

7           Next question, and I apologize for going through  
8 these, each of these individually, but I think it's  
9 important because they do each speak to the relevant  
10 testimony that was presented in opposition, how do you and  
11 your spouse get to work on a regular basis. What was  
12 interesting to me was that, you know, close to 47 percent of  
13 the, whether it's, I hate to use male and female because it  
14 was myself and my partner, my spouse, we have a lot of  
15 alternative lifestyles and I'm not sure who myself is,  
16 whether it's the female head of household or male head of  
17 household, but of the two people that 47 percent rode Metro  
18 for the myself category, 43 percent of the partner but an  
19 additional 13 percent actually walk to work and an  
20 additional 11 percent actually walk to work and so  
21 therefore, only 42 percent in both categories drove a car.

22           If you relate that to the, I guess it's question  
23 no. 9 which I think is the other relevant thing as it  
24 relates to peak hour trips, if you have 42 percent who  
25 actually drive to work, only two-thirds of those in both



1 situations actually drive during the peak hour so again, it  
2 dramatically reduces the amount of actual vehicular traffic  
3 in the peak hour. The length of commuting times is  
4 interesting but I don't think it's totally germane. It's  
5 really related to the amount of people who are using their  
6 cars and when they're actually using them.

7 I was fascinated by Ms. Cirillo's focus on the  
8 number of non-peak hour trips. That was something that, you  
9 know, is never really covered in trip generation statistics  
10 and so we asked our residents. We said, you know, if we, I  
11 think we've defined it correctly and I'm sure Mr. Brown will  
12 figure out a way to challenge the results and tell us that  
13 we didn't, you know, ask the question properly, but the  
14 reality was we said if you drive to and from any  
15 destination, that's considered two trips. How many vehicle  
16 trips does your household trips does your household make  
17 every day, so how many outside of work or inside of work you  
18 actually make.

19 And unlike Ms. Cirillo's assumption that every one  
20 of these townhouses would generate 11, I believe 10 or 11  
21 trips per day, our residents are telling us that from the  
22 standpoint of car trips, the majority, 72 percent, are  
23 making two or less and it's actually close to, I believe  
24 it's 90 percent that are making four or less as opposed to  
25 11. So again, you go to the next question which is how many

1 non-car trips, you can see that, you know, there may be the  
2 total trips is not dissimilar from the 11 that she was  
3 suggesting but the majority of the trips are being made non-  
4 vehicular. They're actually being made by walking.

5           So then we, you know, asked the question how many  
6 times do you do the following types of alternative  
7 transportation, do you walk, do you bike. And again, they  
8 are spread all over the board but in terms of the number of  
9 trips that people are making, it's very few by automobile.

10           So we wanted to know, where do they go. Ninety  
11 percent, you know, go to a restaurant. Thank God Silver  
12 Spring has all these great restaurants in the downtown area.  
13 Sixty percent go to the grocery store, retail shops, dry  
14 cleaning. What I felt was fascinating, you know, 67 percent  
15 (indiscernible) terrible, 67 percent actually use outdoor  
16 park spaces as one of their trips and again, it speaks to  
17 the relevance of why we believe creating these outdoor park  
18 spaces is important and having the amenities such as  
19 Ellsworth Park in the neighborhood as well.

20           So we asked the question a scale of 1 to 10, how  
21 important was being able to walk to amenities and  
22 transportation to your home buying decision and what, to me,  
23 what's relevant here is that you are going to pay a premium  
24 to live in this location. You can buy a townhouse in  
25 Montgomery County for \$250,000 or \$300,000. It might have

1 to be out in Clarksburg or some of these other locations,  
2 and I know Clarksburg isn't so inexpensive either, but there  
3 are places where you don't have to pay, you know, 5 or  
4 \$700,000 to be able to buy a townhouse. And these people  
5 are willing to pay those premiums, and the prices of the  
6 units that we surveyed on these jobs basically average from  
7 approximately 500,000 to a million dollars so they kind of  
8 cover the gamut and I can give you the breakdown of each  
9 individual job if they would like.

10 But basically, what it showed was people find, 56  
11 percent, you know, rated the proximity as the single most  
12 extremely important, I don't want to say single most but  
13 extremely important reason why they chose to buy, you know,  
14 from us and then as you kind of break down, the average  
15 rating was over nine in terms of proximity and the  
16 amenities.

17 So we started to ask a little bit about lifestyle  
18 and, you know, the question was since moving into your EYA  
19 home, how would you describe your overall quality of life,  
20 has it improved, has it stayed the same or has it decreased.

21 It's improved -- you know, for 9.9 percent of the people, I  
22 think it was too early to tell. Some of these people were  
23 relatively new settlements but 66 percent had said lifestyle  
24 quality has improved, 20 percent had stayed the same. Our  
25 assumption in understanding that was actually, in many

1 cases, a significant number of people who buy from us  
2 actually come from within the existing neighborhood and so  
3 if they're actually buying from downtown Silver Spring and  
4 they're sharing the same amenities, they're just trading  
5 because they don't want to take care of a yard anymore or  
6 they're an empty-nester, their lifestyle probably hasn't  
7 changed. But again, the fact that, you know, 85 percent of  
8 the people have either improved or stayed the same was  
9 something that we found very satisfying.

10           Next question we asked was how interactive and  
11 connected are you, are the residents in your EYA  
12 neighborhood and again, you know, we found that the average  
13 of, you know, 3.4 or 32 percent feeling connected, 19  
14 percent, you know, towards the connected end or more  
15 connected and then over 17 percent very connected,  
16 interacted was relevant.

17           And then we asked the question of, you know, how  
18 do you kind of interact, interrelate to your broader  
19 community and so the idea, which of the following areas do  
20 you consider yourself to be engaged in the local community  
21 beyond the boundaries of your homeowners association, check  
22 all that apply. Everybody shops at the local businesses and  
23 I think this is relevant in that one of the things that  
24 clearly everybody wants to see happen in Silver Spring is  
25 these businesses, this retail to survive. We want to find

1 people that are engaged in that community to take advantage  
2 of it, support the local businesses, and our residents, our  
3 buyers definitely do that.

4           You know, how many people get involved in  
5 community activities, you know, do they get out from their  
6 homeowners association as some suggested that, you know,  
7 they're totally insular and they're not part of the  
8 community. Approximately 30 percent do volunteer. I would  
9 be surprised if the overall percentages of the broader  
10 community are much different than this. I think we've seen  
11 that, you know, even at the SOECA meetings, they have a  
12 relatively low percentage of overall turnout of the 700  
13 families that actually come to the meetings. How many  
14 socialize with nearby neighbors outside the HOA.

15           I found this fascinating as I listened to some of  
16 the testimony, the fear that unless you had a single-family  
17 home across the street, that, you know, that person couldn't  
18 be your friend and they wouldn't come over and share  
19 whatever herbs or cut your grass or shovel your snow or, you  
20 know, if you wanted to borrow a cup of sugar, that they  
21 wouldn't be there for you. And I think, you know, again, 53  
22 percent, you know, we could argue that's high or low, to me,  
23 it's a significant percentage of these people do get engaged  
24 in their broader community and socialize outside the HOA and  
25 how many participate in community groups. Again, this was

1 more of a volunteer sense of getting out and participating  
2 in what's happening in the overall community.

3           So I guess, you know, we wanted to do the survey  
4 because I was really troubled by a lot of the statements  
5 that were being made about the nature of townhome residents  
6 and are they compatible from a lifestyle standpoint. You  
7 know, I think we can create a compatible architectural  
8 situation. The question is can we bring neighbors to the  
9 community that these people would eventually find, whether  
10 they like it today or not but in three to four or five  
11 years, would they actually find these are people actually  
12 like me, these are people who want to have children, who  
13 want to stay in their house a long time, they want to invest  
14 in the community, they're going to walk, they're going to  
15 engage, they're going to make the community safer because  
16 they're there and I think that, you know, at least to me,  
17 this survey made that very clear.

18           Catching my breath.

19           BY MR. HARRIS:

20           Q     You're fine. You're fine. Yes.

21           A     All right. So I do want to talk a little bit  
22 about, you know, I guess, you know, this whole idea, I want  
23 to go back to compatibility a little bit and talk about, you  
24 know, why not, you know, the R-60. I assume Mr. Brown's  
25 going to ask me the same question he's asked others, you

1 know, his plan shows 32 units, why isn't that more  
2 compatible than 77. And I guess I would say to me, you  
3 know, they're both compatible. Thirty-two units may  
4 compatible, may be compatible but in my view, this plan is  
5 just as compatible. It doesn't create any significant  
6 amount of traffic impact on the neighborhood as the traffic  
7 experts have testified, it has significant amounts of open  
8 space around the site, it has significant buffers, it's to  
9 scale, it's to character with the surroundings so why, why  
10 isn't it, you know, just as compatible.

11           You know, density, to me, is not a measure,  
12 necessarily, of compatibility and I thought about well, you  
13 know, if what they thought was compatible was the Doggett  
14 plan, and I'll bring that up --

15           MS. ROBESON: I think that's 187.

16           MR. HARRIS: Yes.

17           THE WITNESS: 187. You know, here's the Doggett  
18 plan as opposed to Mr. Brown's plan, you know, this was  
19 actually done by a professional land planner who they hired  
20 suggesting that this was a much more compatible plan for the  
21 community. You know, I've only been doing this for 25, I  
22 guess 28 years and it just struck me like I don't get it. I  
23 mean, I really don't. I mean, I look at this plan and yes,  
24 it's single-family homes and if that's the measure of  
25 compatibility, then maybe you could argue that single-family

1 and single-family makes it compatible but what I see, what  
2 really troubles me is, you know, you have these 14 single-  
3 family homes. They're 40 feet tall relative to the lower  
4 houses across the street, relative to the 35 feet across  
5 here. I think Mr. Iraola testified to the significant  
6 additional length of building mass that you have here  
7 relative to the six facades that you have on this side.

8           What troubles me most of all though are these curb  
9 cuts in the driveways. If you literally were to take each  
10 of these lots, these are all single-car driveways. Well,  
11 every one of these homes, if you're going to build them and  
12 sell them, they're going to have two cars, they're going to  
13 be two-car driveways. Potentially, they're going to be a  
14 two-car garage. It would, just going to take up the  
15 majority of the front facade of that house. And so when you  
16 take a 25-foot lot and you actually spread this driveway out  
17 to accommodate two cars at 18 feet, that's going to leave  
18 you out of maybe seven feet basically between these. I'm  
19 not even sure if you can actually get street trees along  
20 this side.

21           And I think back to Mr. Gurwitz's photographs that  
22 he was showing looking down Springvale and how we had this  
23 great view of all the trees that were there today, and I  
24 kept thinking well, if this is what gets built, I don't see  
25 how you're going to ever see that. You're just going to see



1   this wall of 40-foot tall houses without, with 14 curb cuts  
2   and just a sea of paving and I don't know how that is more  
3   compatible than what you see on this plan which is this  
4   double row of street trees, the linear park stretching down,  
5   significant park space at both sides.

6               So I was really troubled, honestly, by -- if this  
7   was just a way to demonstrate how you could fit 32 units on  
8   the site, so be it but if this is really being presented as  
9   a more compatible plan, I struggled with it and I think  
10   that, you know, Mr. Wels, Marty Wells, sorry, if Marty  
11   Wells, as he testified, you know, that although the traffic  
12   from here is de minimis just like the traffic from this,  
13   clearly, even at a de minimis level, this has got to be  
14   worse than what was being proposed here from a traffic  
15   standpoint. Those cars will back in and out of the  
16   driveway, it is very few numbers and as he said, he doesn't  
17   think it would have an impact and I agree, it probably  
18   doesn't have an impact either but relatively speaking, to  
19   me, it's got to be worse than this given the amount of curb  
20   cuts throughout the, on the driveway. So I really, I  
21   struggled with this.

22              I also, in relation to Mr. Doggett's testimony,  
23   you know, I thought a lot about the case that he talked  
24   about. I believe it was in Tenleytown. He referenced a  
25   townhouse development where the developer tried to get

1 townhouses approved and ended up with duplexes. Is that  
2 correct? I believe so. I can't ask questions myself. I  
3 believe that was the situation. And, you know, I was again,  
4 thought back history-wise and I recall that that project was  
5 actually done by the Holladay Corporation and to make a long  
6 story short, when I first started out of business school, I  
7 actually worked at the Holladay Corporation for five years  
8 before I started EYA so, you know, I kind of followed the  
9 history and I remembered the case and I went back and I just  
10 wanted to find out exactly what was the situation there and  
11 why was it duplexes.

12           And what I found interesting was Mr. Doggett, at  
13 the time of that particular case, was actually testifying on  
14 behalf of the developer and was actually testifying in front  
15 of the District of Columbia Zoning Commission for  
16 townhouses. He was supporting townhouses, was a hired  
17 witness for them for the townhouses. I did bring excerpts  
18 of his testimony from that case and so I found it I guess --  
19 I don't know if it's, it's just, it was confusing to me that  
20 here, he would come in here and testify that duplexes were  
21 the right transitional use and that that was the appropriate  
22 transition from commercial to single-family but at the time,  
23 he was really hired to testify on behalf of the developer  
24 that townhouses was the right transitional use.

25           Now, again, I have great respect for Mr.

1 Doggett's, you know, background and his experience in  
2 Fairfax County but it just, I guess what it says to me, not  
3 that it's right or wrong, but there are all types of  
4 solutions that make good transitional uses and maybe at one  
5 point, he felt townhouses was the right transitional use and  
6 maybe because the case didn't go his way, he decided to  
7 switch and say today that duplexes were the right use, but I  
8 did find it interesting that he was actually testifying on  
9 behalf of townhouses.

10 I think just not to get into a great detail about  
11 his testimony, you know, he, there's been a lot of questions  
12 about smart growth and Mr. Doggett, in that particular  
13 hearing -- let me just, I want to make sure that --

14 MS. ROBESON: Well, if you're going to refer to  
15 it --

16 THE WITNESS: Yeah. I'm going to record it as an  
17 exhibit so what would this be?

18 MS. ROBESON: I can't answer you.

19 MR. HARRIS: 221.

20 MS. ROBESON: I can't find my sheet. 221, yes.

21 (Exhibit No. 221 was marked for  
22 identification.)

23 MS. ROBESON: And this is a copy of Doggett  
24 testimony.

25 THE WITNESS: Right. Copy of Doggett testimony.

1 It's really just excerpts from Case No. 0003C, the  
2 Consolidated PED Map Amendment Tenleytown Metro Station,  
3 Albemarle Associates.

4 MR. BROWN: Is this the entire Doggett testimony?

5 THE WITNESS: You know, I don't know if it's the  
6 entire testimony. It may be just excerpts of it, but we can  
7 get you the entire transcript for the entire case if you'd  
8 like.

9 MS. ROBESON: Well, why don't we do, we have  
10 required that when --

11 THE WITNESS: That's fine.

12 MS. ROBESON: -- people have taken excerpts so  
13 we'll admit it for now as 221 with the assumption or the, I  
14 would request that you submit the whole thing.

15 THE WITNESS: That's fine. We can do that surely.

16 (Exhibit No. 221 was received into  
17 evidence.)

18 THE WITNESS: I just want to reference, I guess  
19 it's line 23 on page 92 of this testimony where, and just to  
20 go back just so everybody knows that this is Mr. Doggett  
21 speaking, his testimony in this situation starts on page 89  
22 where Mr. Phil Feola, the attorney on behalf of the  
23 applicant, introduces the last witness as Ken Doggett, our  
24 urban planner, and he describes himself as Ken Doggett, land  
25 planner with 30 years experience.

1                   And then I'm jumping to now, to page 92 where on  
2 line 23, he starts that paragraph by saying smart growth is  
3 really not a new thing. It's an old thing. It's not  
4 dissimilar to something I said, actually, when I was  
5 challenged about whether or not I was a prophet or not about  
6 whether or not smart growth would be around for a long time.

7       And what it is, it's preventing sprawl using what  
8 facilities and infrastructure you have and taking advantage  
9 of them. D.C. Office of Planning also recognizes the actual  
10 site as unique and it goes on.

11                  But then he says on line 8 of page 93, the  
12 proposed townhouses would also help to support the  
13 employment base located along the commercialized Wisconsin  
14 Avenue by establishing a greater number and a diversity of  
15 homes. And on line 17, the opposition may indicate this  
16 area was originally planned as a low-density Metro area,  
17 that the continued validity of this approach remains  
18 questionable.

19                  So I think what, at least what I took from that  
20 was that, you know, he was pointing out, and maybe this case  
21 is very different, that times do change and at one point,  
22 you know, what may have made sense at a particular master  
23 plan or a particular time and place may not always hold true  
24 over the long term and, you know, Mr. Doggett felt that  
25 townhomes in this particular case was the appropriate

1 transitional use and basically covers my concern about Mr.  
2 Doggett but I do think he's a very nice man and very  
3 knowledgeable in that situation. Maybe he just, you know,  
4 for whatever reason, you know, felt that things have  
5 changed.

6           Let's see. So I want to talk a little bit about  
7 some questions that were raised with regard to four-story  
8 height. There were some suggestions that possibly our units  
9 were going to be four-story. I think it related to an issue  
10 raised by the Housing Opportunity. Not Housing Opportunity  
11 but DCHA, DHCA with regard to the MPDUs. And again, just to  
12 clarify, where we were going to be locating our MPDU units  
13 were in the strings that were considered the uphill strings  
14 and so in effect, they're still a 35 feet as measured under  
15 the Zoning Code but because the slope of the site slopes  
16 down the hillside, you could actually tuck the lower level  
17 of this particular unit in the garage into a basement  
18 facility, and that would be located here as well. So it  
19 would still appear and be, all respects, a 35-foot height  
20 unit as measured by Zoning but the lower level will be below  
21 grade.

22           I also want to address the, you know, the question  
23 I guess of whether or not, you know, in Mr. Brown's plan  
24 that --

25           MS. ROBESON: Wait. Are we talking Mr. Doggett's

1 or Mr. Brown's?

2 THE WITNESS: No, no. Mr. Brown's plan. The --

3 MS. ROBESON: Okay.

4 THE WITNESS: I guess either plan because, you  
5 know --

6 MS. ROBESON: Well, which?

7 THE WITNESS: Sorry.

8 MS. ROBESON: I just want to make sure.

9 THE WITNESS: Sure.

10 MS. ROBESON: What exhibit number?

11 MR. BROWN: 149.

12 MS. ROBESON: Okay.

13 THE WITNESS: Which is Mr. Brown's plan?

14 BY MR. HARRIS:

15 Q 149.

16 A 149. And I guess it's more related to the idea of  
17 a, you know, 32-unit or 39-unit plan, whether or not that  
18 could actually be built, and it's possible. You know, at  
19 some point, some point in time, a 32 or a 39-unit plan could  
20 be built on the site.

21 The Chelsea School, you know, has a choice just  
22 like, you know, every homeowner in the neighboring block  
23 will have a choice if they're ever approached to sell their  
24 single-family house for future development. Chelsea's  
25 choices, I think, to sell to another school for

1 redevelopment of another school, whatever size, whether it  
2 be according to the 200-unit special exception or  
3 potentially, a 400-unit school, or to somebody like us who  
4 comes along with a proposal, or potentially to somebody else  
5 who might come along with a single-family home plan. They  
6 have made it very clear to us that if we're not successful in  
7 this process, they do have backup alternatives and I'd like  
8 to just submit for the record a letter from the Avalon  
9 School.

10 MS. ROBESON: So this will be 222.

11 (Exhibit No. 222 was marked for  
12 identification.)

13 MS. ROBESON: And it is -- I don't see a date on  
14 it. Letter from --

15 THE WITNESS: This was received --

16 MS. ROBESON: McPhearson.

17 THE WITNESS: Yeah. I believe this was received  
18 approximately two months ago, a month ago.

19

20 BY MR. HARRIS:

21 Q May 13.

22 A May 13. May 13.

23 MS. ROBESON: And who is Mr. Messina?

24 THE WITNESS: Mr. Messina is, was the previous  
25 head of Chelsea School. I believe he's just recently



1     resigned --

2                 MS. ROBESON:   Okay.

3                 THE WITNESS:   -- and there's a new head.   But the  
4     letter is from the Avalon School, a parochial school located  
5     in Montgomery County.

6                 MR. BROWN:    I'm sorry.   Where does the date come  
7     from besides Mr. Harris' testimony?

8                 THE WITNESS:   I'm sorry.   May 13th is --

9                 MR. BROWN:    Where is the date coming from?

10                MS. ROBESON:   Is it in the letter?

11                THE WITNESS:   I don't believe it's in the letter.

12     It was -- I know it was, I mean, I received a copy of the  
13     letter approximately a month-and-a-half ago and it came  
14     directly from Mr. Messina to us.   I don't know why there's  
15     not a date on the letter but again, it is, it is recent.

16                MS. ROBESON:   Okay.   So you received it a month-  
17     and-a-half ago.

18                THE WITNESS:   Correct.

19                MR. BROWN:    You're not an addressee on the letter.  
20     This is totally incompetent.   We either have the addressee  
21     of the letter telling us he got the letter or we have  
22     nothing because this is undated.   All I can tell you is that  
23     it postdates December 2010.

24                MS. ROBESON:   Let me ask you this.

25                THE WITNESS:   Yeah.

1 MS. ROBESON: How did this come into your  
2 possession?

3 THE WITNESS: It came in through Mr. Messina who  
4 said to us, you know, we meet with them regularly, we were  
5 asking them, they were asking us how the process was going.  
6 Obviously they're, they have a vested interest in how the  
7 re-zoning is going because if we're not successful, we don't  
8 close on the property and they have to figure out what their  
9 alternatives are. And so he presented this to us saying I  
10 just want you to know I do have alternatives. Avalon has  
11 approached us. If you guys are thinking you are not going  
12 to be successful, let us know and we'll go in another  
13 direction.

14 MS. ROBESON: So this was provided to you by the  
15 school.

16 THE WITNESS: Correct.

17 MS. ROBESON: Mr. Brown?

18 MR. BROWN: I object to this letter unless we have  
19 in the record the contract between Chelsea School and EYA.  
20 This letter provides nothing but misleading information  
21 otherwise.

22 MS. ROBESON: Well --

23 MR. BROWN: What are the terms of the contract? I  
24 asked Mr. Youngentob about that and he refused to disclose  
25 it on cross-examination earlier in this case.

1                   MS. ROBESON: Well, I don't think that -- I see  
2 what you're saying. I don't think that, I don't think the  
3 issue is what his, I don't think it's ever been an issue  
4 that they are not on the contract. I think, so I don't see  
5 the relevance of the terms of the contract. I will take it  
6 in and let you cross on it and I'll give it the weight it  
7 deserves, so go ahead, Mr. Youngentob.

8                   THE WITNESS: Sure. The sole purpose of putting  
9 it into the record is that I believe, in my opinion, based  
10 on the experience I've had throughout this particular  
11 situation and dealing with Chelsea, that the history of when  
12 we put the property under contract, that they had  
13 alternatives and they were approached by other schools, and  
14 this was in evidence that there was a school who was still  
15 currently interested in acquiring the site for another  
16 school. And the fact that it was a parochial school, you  
17 know, there's been some question about whether or not, you  
18 know, you could actually develop this at a 400-unit capacity  
19 and it was a parochial school, it still is, who has an  
20 interest and that does make the possibility that you need to  
21 look at all these alternatives, not just a 32-unit  
22 development, as what would happen if we didn't go forward.

23                   MS. ROBESON: That's true. That's true, but part  
24 of this case has sort of been a parade of parables on both  
25 sides about what might go there, and what we're looking at

1     today is whether this is compatible.

2                   THE WITNESS:   I agree.

3                   MS. ROBESON:   So, you know, I'll take it in and  
4     I'll give it the weight it deserves but again, I'm going to  
5     base my decision on this plan.

6                   THE WITNESS:   That's fine.

7                   MS. ROBESON:   So continue.

8                   THE WITNESS:   Okay.   I'd like to talk a little bit  
9     about the domino effect that we've all heard about and  
10    talked about.   I guess I need to put up -- so looking at  
11    112G, the subject property, Chelsea School located here, and  
12    I think there's a lot of questions about, you know, why not  
13    this site next and then why not Springvale Terrace senior  
14    housing next.

15                   I can't sit here and say it will never happen, you  
16    know, it might.   I mean, you might have somebody who comes  
17    along and tries to acquire that site next door.   I think it  
18    was Mrs., Ms. Volk who testified that, you know, she was a  
19    single-family owner in this particular block and loved her  
20    neighborhood.   Nobody is putting a gun to her head to sell  
21    that lot and that, in reality, is why single-family home  
22    sites or single-family home blocks don't make easy  
23    acquisition targets.   Has it been done?   You know, I'm sure  
24    at some point, it's been done.   Blocks do get assembled and  
25    they are redeveloped but as long as those individual

1 property owners love their neighborhood and want to stay  
2 there, they don't, nobody's forcing them to sell their piece  
3 of property.

4 In the case of the Chelsea School, it's a single  
5 user who had, for economic reasons, no longer had a viable  
6 economic opportunity at their particular site. They had to  
7 relocate for them to be able to stay in business. When they  
8 made that choice, then they created the situation of what  
9 are their alternatives. And their alternatives, from a  
10 value standpoint, clearly are selling to another school or  
11 something like, you know, we're proposing today. And I  
12 think yes, the opportunity, you know, potentially exist, as  
13 Mr. Brown will point out, that a single-family option of 32  
14 units is viable.

15 I would counter that by saying the school  
16 alternative will create a much higher value for them than  
17 the single-family home opportunity and therefore, they have  
18 to find another alternative if they felt they were going to  
19 address what was happening in the neighborhood from their  
20 own standpoint of the operations of another school, the  
21 impact that it might have on the community and I think they  
22 felt they were doing the community a service by trying to  
23 bring somebody else like us in to create what they felt was  
24 a more compatible use than another school operating that  
25 situation.

1           I don't believe, when you look at the single-  
2 family homes on the Pershing block and you start to look at  
3 the individual values and the lot sizes of those homes, and  
4 maybe this will help Mr. Brown, I don't know, the fact that  
5 you have single-family homes that sell somewhere between,  
6 you know, 5 or \$600,000, in that range, and there are 8 to  
7 10,000 square foot lots, and you look at the cost per acre  
8 of somewhere around 2.5 to \$3 million per acre, that that  
9 creates a viable alternative. It clearly doesn't create a  
10 viable alternative at 14 units per acre. Maybe at 60 units  
11 per acre you could build multi-family and pay \$3 million per  
12 acre but you clearly can't develop anything at 14 units per  
13 acre.

14           And so the likelihood is that with all those  
15 individual family, individual single-family homes, unless  
16 they choose to discount the values of their homes well below  
17 a neighboring property or decide to let their property run  
18 down to the point there is no viable use, then that block  
19 will not redevelop under normal economic, a normal economic  
20 scenario. As far as --

21           MS. ROBESON: I'm not sure that the question was  
22 simply the domino effect, the physical redevelopment of that  
23 block. It's also whether it's going to isolate the  
24 community from the other single-family homes.

25           THE WITNESS: I would say it actually --

1                   MS. ROBESON: And I think Mr. Teller made the  
2 argument, I think that was his name, that that park and the  
3 Riggs-Thompson house would be the connector essentially.  
4 Now, we don't have, we don't have a binding element as to  
5 that setback, correct?

6                   THE WITNESS: Right now, we do not have a binding  
7 element and I'm going to talk about that in a few minutes  
8 because I am going to go through some of the alternative  
9 plans.

10                  MS. ROBESON: Okay. I won't stop you.

11                  THE WITNESS: Okay. But I agree that basically  
12 the relationship of the greenspace at Riggs-Thompson without  
13 the institutional elements here actually is a much more  
14 compatible than similar use to what's happening across the  
15 street. I did want to also address, you know, what could  
16 happen to Springvale Terrace. I mean, again, it's possible  
17 that that block, you know, could, at some point, that owner  
18 could say well, the nursing home value isn't, you know, what  
19 it used to be and therefore, I want to turn around and sell  
20 my site. It does happen.

21                  Again, my experience is that when you have a  
22 successful operating business on a location that generates  
23 value, that it's very difficult to purchase just the land  
24 value and separate out the operating business. The  
25 operating business typically generates a lot more value than

1 the land itself and therefore, when they're combined on a  
2 site, it's almost impossible to buy something for just the  
3 land value. In the case of Chelsea, the operating business  
4 didn't exist anymore in that location. It was really just  
5 the land value.

6 I guess the only point I'd make relative to that,  
7 and I know we're all scared about, you know, precedents and  
8 what could happen. You know, at one point, you know, Riggs-  
9 Thompson was, I forget if it was 140 acres in this  
10 neighborhood, but it was a farm. You know, the opposition  
11 wouldn't be here today if it wasn't for some process, maybe  
12 not identical to this, maybe it wasn't five days of public  
13 hearing, but at some point, you know, some developer came  
14 along and said that farmland, you know, close proximity to  
15 the horse and buggy route, you know, along Georgia Avenue or  
16 whatever it was at that point, you know, wasn't the right  
17 use anymore, that there should be more density associated  
18 with this transportation corridor. And in many ways, you  
19 know, times do change and that's okay. That, to me, is not  
20 a bad thing.

21 And so I don't believe that, you know, just  
22 suggesting that something could change in the future is a  
23 reason to prevent something from happening. Like you said,  
24 I think we should be focused on compatibility of what's  
25 being proposed and what's being designed here and whether or



1 not it works with the surrounding uses. I think we very  
2 much strongly believe that it does.

3 So that being said, I know there's been a lot of  
4 talk of the alternatives and Mr. Iraola presented this. I  
5 wanted to actually take a few minutes, and humor me if you  
6 will about looking at each of these alternatives. And I'm  
7 going to ask Aakash to come up and help me do this. What I  
8 wanted to try to present and, you know, there's a lot of  
9 questions about -- yeah. Let's just keep this on.

10 MR. THAKKAR: Same scale?

11 THE WITNESS: Exact same scale. And I wanted to  
12 try to demonstrate how each of these alternatives -- that  
13 should be 30 scale.

14 BY MR. HARRIS:

15 Q That's 40 scale.

16 A Is that 40 scale? That's why. We need a 30  
17 scale. If not --

18 (Discussion off the record.)

19 THE WITNESS: All right. The next number? Sorry.

20 MS. ROBESON: 223.

21 (Exhibit No. 223 was marked for  
22 identification.)

23 MS. ROBESON: And what is this?

24 THE WITNESS: Okay. So this is a Chelsea  
25 illustrative cul-de-sac drawing. This is one of the

1 drawings that were presented for discussion to Technical  
2 Staff tomorrow. I have a series of a few of these that I  
3 just want to go through to primarily talk about  
4 compatibility and how they relate and why I don't believe  
5 that a significant amount of additional review may be  
6 necessary because in effect, every one of these plans really  
7 reflects the same compatibility elements of the original  
8 plan with some minor variations as it relates to  
9 circulation, not necessarily architecture or scale or mass  
10 and things like that.

11           And so what we did in this particular drawing was  
12 we created a 90-foot cul-de-sac which meets the fire  
13 department turnaround radius at the end of Street A. It's  
14 completely outside of the existing historic easement and it  
15 provides access to all the units, and I think Mr. Wells  
16 testified that the amount of traffic that would be coming  
17 back out of Ellsworth would really be insignificantly  
18 different from the existing plan.

19           And I know, I guess I won't go to hearsay but I do  
20 believe that based on discussions that I've had and by  
21 reading some of the DRC information from the Historic  
22 Preservation, that they really would have no reason to  
23 object to a plan like this that doesn't have any crossings  
24 whatsoever into the historic easement. So in terms of  
25 creating something that is buildable, we believe this, you

1 know, would meet that test.

2           There may be other issues that Park and Planning  
3 Staff has that we'll learn more about tomorrow. I know one  
4 of the things that they have always felt very strongly about  
5 was connectivity. They would like to see -- part of smart  
6 growth is they like to see streets connect. Cul-de-sacs  
7 are, you know, they're older, you know, solutions as opposed  
8 to newer solutions in how you create inner-connectivity and  
9 street connectivity. You can go to anyone.

10           BY MR. HARRIS:

11           Q     Which one?

12           A     Any one.

13           Q     Will this work?

14           A     Sure.

15           Q     Okay.

16           MS. ROBESON: So this would be 224.

17           THE WITNESS: Right.

18                       (Exhibit No. 224 was marked for  
19 identification.)

20           MS. ROBESON: And can you describe what this?

21           THE WITNESS: Sure. This is a very simple  
22 alteration to the existing plan where again, we've outlined  
23 on this particular drawing the existing historic easement.

24           MS. ROBESON: Now, I'm sorry. I want to just make  
25 sure they're --

1 THE WITNESS: Sure.

2 MS. ROBESON: Are you marking these?

3 THE WITNESS: Yes. We did.

4 MS. ROBESON: Okay.

5 THE WITNESS: 233. This will be 23 -- I'm sorry.

6 234.

7 MS. ROBESON: This is 224.

8 THE WITNESS: 224, I'm sorry.

9 MR. HARRIS: 223, 224.

10 MS. ROBESON: Now, can you get 210 back up, the

11 alternate alignments?

12 THE WITNESS: Oh, yeah.

13 MS. ROBESON: Remember? Can you put that where

14 the --

15 THE WITNESS: Oh, it's on there? All right.

16 Let's move it up here.

17 MS. ROBESON: Oh, I didn't realize I was creating

18 a --

19 THE WITNESS: No, no. That's okay. That's okay.

20 MS. ROBESON: Okay. Just leave it on there or --

21 THE WITNESS: No, no. Let's move that one over.

22 We'll just flip to another one.

23 MS. ROBESON: Okay. So which of those alignments

24 does --

25 THE WITNESS: Okay.

1 MS. ROBESON: Is this the existing --

2 THE WITNESS: This is actually -- no. This is F.

3 MS. ROBESON: F.

4 THE WITNESS: This is the --

5 BY MR. HARRIS:

6 Q No. No.

7 A Yes, it is. Yes, it is. F.

8 Q Oh, it is.

9 A Okay.

10 MS. ROBESON: On 210.

11 THE WITNESS: 210.

12 MS. ROBESON: This corresponds with F on --

13 THE WITNESS: 224 corresponds to 210, Exhibit F.

14 MS. ROBESON: Okay.

15 THE WITNESS: From a conceptual standpoint. And

16 the reason why I want to go through each of these is

17 because, you know, these are really very simple kind of line

18 drawings showing approximately where the access will be.

19 MS. ROBESON: Right.

20 THE WITNESS: What we actually tried to

21 demonstrate is with the footprint of the houses, how, and

22 with the widths of the roads, how this would actually impact

23 the plan itself so, and we're showing the historic easement

24 very clearly on here too so you can see how we're going to -

25 -

1           So one of the things that has been done in the  
2 past, whether or not, you know, the Historic Preservation  
3 Board would actually approve it in this case, is to relocate  
4 the historic home. I know there are questions about  
5 historic setting and how does it impact it, but we actually  
6 got a proposal from a historic house mover to shift the  
7 house basically, approximately the distance of the existing  
8 house itself which is approximately, this is 1 inch equals  
9 30, it's about probably a 40-foot depth, 45-foot depth.

10           And just to shift the house 45 feet away from the  
11 existing alignment of the road we believe, although they may  
12 not be comfortable with relocating the house, it does  
13 address the one concern that we heard about the existing  
14 alignment, was its proximity to the existing house and its  
15 potential impact on an element that originally we didn't  
16 show on the drawing as being part of the historic element  
17 which we now accept is, but by shifting the house away, you  
18 would keep the road in the exact same alignment and protect  
19 the historic setting for that entire area with no impact.  
20 It's just another alternative, not to say that there's, you  
21 know, any right answer or not. It's what we've got.

22           This is, these are all -- this is 225.

23                   (Exhibit No. 225 was marked for  
24 identification.)

25           MS. ROBESON: So what would you call this one?

1           THE WITNESS:   Okay.   This would be 225.   We could  
2   call this a shift the road alternative.

3           MS. ROBESON:   The what?

4           THE WITNESS:   Shift the road alternative.

5           MS. ROBESON:   Shift the road alternative.

6           THE WITNESS:   Correct.

7           MS. ROBESON:   Now, can you describe what on 210?

8           THE WITNESS:   210, yes.   This is, this is actually  
9   in relation to A, right?   No.

10          BY MR. HARRIS:

11          Q       No.

12          A       I'm sorry, C.   210C.

13          MS. ROBESON:   Shift the road alternative.

14          THE WITNESS:   Shift the road alternative.   Okay.

15   And slightly different, Miguel actually described this, you  
16   know, the goal was to move the road that actually goes  
17   through the historic setting further away from the house.

18   Rather than just bending the angle as he showed it here, the  
19   thing that I looked at more specifically that he has since  
20   reviewed, was to actually remove one of the townhouse units  
21   from the top string of units where under the original plan,  
22   this actually had five, six units in each of these strings  
23   in the downhill strings and nine units in the uphill  
24   strings, six and eight, reduced that by one in each of these  
25   strings and added that unit to the string closer to Cedar

1 Street.

2           And what that did is it allowed the entire road,  
3 even though the connection point at Ellsworth was still in  
4 the same location, it allowed the entire road to shift  
5 closer to Springvale and therefore, get away from the  
6 historic house by approximately additional 22 feet. So  
7 where we were 16 feet before, now we're close to 40 feet  
8 separation. And what I found was interesting, and again,  
9 you know, this was designed, the easement was designed  
10 around the future buildings of the revised Chelsea School  
11 but they didn't consider this particular area to be  
12 historic. You can actually align this road, I just  
13 literally traced over it, but you could actually shift that  
14 road directly into that little notch and therefore, the only  
15 impact on the historic easement might be this section here.

16           And, you know, in the future, I'm not  
17 uncomfortable with, you know, agreeing to keep the same  
18 amount of historic easement, you know, in total or  
19 potentially slightly more. So potentially, you could, you  
20 know, recapture all of this area here in the historic  
21 easement that would clearly exceed the area that you may be  
22 taking from the historic easement, and I'm just thinking of  
23 how that discussion might go with the Historic Review Staff.

24           Additionally, as Mr. Iraola mentioned, there are  
25 numerous treatments for how this road might be dealt with.



1 As you can see, this road already is significantly narrower  
2 than what was happening back here. We have parallel parking  
3 back here. As you get to this point, we really viewed this  
4 as more of a driveway. We felt we could narrow this down to  
5 20 feet. We could not do it as asphalt, with typical curbs,  
6 that you could actually do kind of a flat treatment with  
7 brick pavers and make it more like part of a park in effect,  
8 part of the design as opposed just a roadway and that's the  
9 way I think --

10 MS. ROBESON: Is that road going to stay private?

11 THE WITNESS: I'm sorry?

12 MS. ROBESON: Is that road going to stay private?

13 THE WITNESS: Yes. Yes. The entire road, which  
14 is a key, because it wouldn't have to be built to DOT  
15 standards so yes, it would be, would be private, maintained  
16 by the HOA but it would have public access easements on it.

17 MS. ROBESON: I understand that.

18 THE WITNESS: So you could walk on it, you know,  
19 you could drive on it if you were a neighbor. So they just  
20 show -- the next one.

21 MS. ROBESON: And this would be 226.

22 THE WITNESS: 226.

23 (Exhibit No. 226 was marked for  
24 identification.)

25 MS. ROBESON: And which one does this correspond

1 to? Which scenario on 210?

2 THE WITNESS: All right. This is, this is 210D.

3 MS. ROBESON: Okay.

4 THE WITNESS: But it's again, you know, from an  
5 actual implementation standpoint, I think it's actually a  
6 better alternative that, in terms of how it would be  
7 detailed. I'm sorry. It's not 210, 226. Okay. We're,  
8 rather than taking the road all the way up here adjacent to  
9 the historic house, that, as I think I mentioned in previous  
10 testimony, the logical place to doing the road, if you were  
11 going to turn it either out to Springvale or back along this  
12 side, would be to bring it through one of the courtyards.  
13 You want fronts of houses facing onto that street. You want  
14 front doors, not, you know, rears. You don't want to go  
15 through the alleys. You want to, I assume you'd want to  
16 stay away from the historic house at this point.

17 And so what we did is these courtyards today are  
18 in the 36-foot wide range which is totally consistent with  
19 other projects that we've had approved and we've done at  
20 other locations. You would have to widen this out by  
21 approximately 15 to 16 feet to bring the road through there.  
22 Again, it would be a 20-foot road section and you would  
23 bring it down this way and turn it. You would have to shift  
24 two units that were closest to Cedar Street at this point to  
25 accommodate the road coming through. Those two units would

1 be relocated up onto these two strings here. Again, no  
2 impact on how it would be perceived from Springvale. And  
3 you could bring the road straight through and out to  
4 Pershing in this direction, but it would make more sense to  
5 bring it here.

6 And again, I just want to point out that even by  
7 shifting these two units 15 feet, the units themselves would  
8 be outside of the historic easement so there's no impact on  
9 the historic easement in this area at all except for the  
10 road coming through which again, treated more like a  
11 driveway, would be not dissimilar from the driveway that's  
12 already been approved in the last plan.

13 Last one.

14 MS. ROBESON: This will be 227.

15 (Exhibit No. 227 was marked for  
16 identification.)

17 MS. ROBESON: And can you tell me which one -- oh,  
18 this corresponds with E?

19 MR. HARRIS: Yes.

20 THE WITNESS: This would be E, yes.

21 MS. ROBESON: Okay. Sketch --

22 THE WITNESS: This is the one I know gives Mr.  
23 Millson heartburn. So what was the number?

24 MS. ROBESON: 227, sketch showing road alignment.

25 THE WITNESS: This is connects, right, Chelsea,

1 Chelsea illustrative Springvale connection. And again, what  
2 we did here was to accommodate the road coming through that  
3 first courtyard was to widen up this courtyard by  
4 approximately 15 feet, straighten the road through, have no  
5 more connection at this point. The unit strings, in effect,  
6 don't change at all and even by shifting his building 15  
7 feet to this direction, we're still completely outside of  
8 the historic easement.

9 I know, you know, this gives some people concern  
10 over the connection. I know this was the issue with regard  
11 to the binding element being in, being out, being back in  
12 and potentially being out, but my recollection at the  
13 Planning Board was that it was Mr. Dreyfuss actually who  
14 suggested that we should maintain flexibility and that by  
15 removing that binding element, then the Planning Board later  
16 would have the flexibility to make a final determination on  
17 the road alignment.

18 You know, we originally thought that we could live  
19 without having access to Springvale because we thought we  
20 could go through the historic easement, and I think this is,  
21 you know, a perfect situation of how we have numerous  
22 competing interests pushing in different directions and  
23 eventually, the bubble bursts. And so I am happy, you know,  
24 to say to Mr. Millson that this would be our last choice.  
25 We would love not to have to put this road through here but

1 if the opposition, you know, makes their case that they  
2 would fight tooth and nail to Historic Preservation that  
3 they don't want this road through here and Park and Planning  
4 Staff says well, we don't really want to have a cul-de-sac  
5 because we want connectivity, we'd rather see the road go  
6 somewhere, I think we have to have the flexibility to come  
7 out to Springvale.

8           The reality, the only thing that gives me comfort  
9 in suggesting to Mr. Millson that that's not going to be the  
10 end of the world was Mr. Wells' testimony that at the end of  
11 the day, even if you put this road through, the traffic  
12 impact is less than the 15 single-family houses or the 14  
13 single-family houses and it's de minimis in either scenario.  
14 And so where in an ideal world it would make sense, you  
15 know, not to put this through so we could, you know, at  
16 least address one individual's concern or a broader  
17 community's concern, we do have all these competing  
18 interests.

19           So I think, you know, what I'm trying to show is  
20 that there are a number of alternatives that don't really  
21 impact the level of density, they don't really impact the  
22 compatibility as it relates to scale and mass and  
23 architecture. They may have an impact as it relates to  
24 traffic and traffic connectivity but there just are a lot of  
25 competing interests and I think, you know, that's what the

1 Planning Board does at the end of the day, not necessarily  
2 decide, you know, it's your job to decide, I guess, on the  
3 level of density and the appropriate zoning but at the end  
4 of the day, it's what I believe their responsibility is is  
5 to decide the final alignment, potentially, of where those  
6 roads go.

7 I think we're flexible. We're trying to show that  
8 there are a number of alternatives that do work but even in  
9 what may be Mr. Millson's worst case scenario, the traffic  
10 implications of that particular scenario or insignificant as  
11 it relates to an alternative. So that is it on the plans.

12 You had some specific questions of Mr. Iraola. If you have  
13 any questions, I can answer them now on those various  
14 drawings.

15 MS. ROBESON: No. I'm going to, if that -- do you  
16 have anything else for Youngentob?

17 THE WITNESS: I --

18 MS. ROBESON: Oh, I'm sorry.

19 THE WITNESS: I just, I just want to close with --

20 MS. ROBESON: Oh, I apologize. I didn't mean --

21 THE WITNESS: I was just suggesting if you had any  
22 questions. He may have some questions. We have all sat  
23 through, you know, a lot --

24 MS. ROBESON: Oh --

25 THE WITNESS: Yes.

1 MS. ROBESON: I know my question.

2 THE WITNESS: Yes.

3 MS. ROBESON: Do any of these scenarios, are they  
4 still the same amount of public access greenspace, or have  
5 you calculated that?

6 THE WITNESS: You know, I haven't calculated it  
7 exactly but, you know, just again, from a, you know, I'm  
8 sure I'll get challenged on this from a technical standpoint  
9 from Mr. Brown, but if you just look at this length of road,  
10 and so I'll just use my pen as an approximation, okay, so if  
11 you assume that this road wasn't counted in greenspace  
12 before because it was defined as, you know, place where cars  
13 drive, that's not part of the greenspace, and you moved it,  
14 and this was previously and you moved this to here, the  
15 tradeoff of shifting this 15 feet, you know, these areas  
16 still count as greenspace so I think it's almost a direct  
17 tradeoff. If you do, you know, this direction here and take  
18 this through here, this is probably a slightly, a slight  
19 reduction because the linear length of getting out this way  
20 is slightly longer.

21 MS. ROBESON: But that wasn't part of the public  
22 easement space, right?

23 THE WITNESS: Well, I think --

24 MS. ROBESON: The owner was going to, the guy,  
25 whoever buys that single-family home.

1           THE WITNESS: Correct. You're correct. So, yes.  
2     This single-family home would be entitled to this land but  
3     clearly, if we put a road through here, that would be public  
4     access as well, the sidewalk along it, the driveway through  
5     it. The shifting of the road has no impact when we shifted  
6     it up in terms of the public greenspace. The cul-de-sac I  
7     guess, I don't, I haven't measured the circumference of the  
8     circle. It does take up more area than the road itself. It  
9     is a 90-foot diameter. It's probably similar. You could  
10    argue that it actually, you know, maybe it's better from a  
11    greenspace because it's not dividing this in two so, but  
12    they're all generally similar from the overall greenspace  
13    impact so --

14           MS. ROBESON: Okay.

15           BY MR. HARRIS:

16           Q     And is it still your intention to stay within the  
17    greenspace commitment binding element of 2. --

18           A     Yeah, 40 percent.

19           Q     Forty percent, yes.

20           A     Yes. Absolutely. Actually, I do want to  
21    introduce -- I think I have those here. I'd like to  
22    introduce the binding elements. Can I do that?

23           Q     Yes. They are not typed up though.

24           A     That's okay. These are not typed up but --

25           MS. SPIELBERG: Can we have a copy?



1 MR. HARRIS: They're not typed up.

2 THE WITNESS: They're not typed up but I can read  
3 them into the record. So with regard to some additional  
4 binding elements that we think that may help address the  
5 compatibility issue or kind of walk more in the direction of  
6 where we are, the historic setting, this is no. 1, the  
7 historic setting for the Riggs-Thompson house will remain a  
8 minimum of 37,056 square feet subject to HPC approval of the  
9 possible access road to Pershing Drive. Second, the  
10 townhouses will be located in a manner that will provide  
11 significant green areas along Pershing Drive and Ellsworth  
12 Drive and a linear green along Springvale Road. Third, any  
13 units facing Springvale Road will be designed to have their  
14 front facades face Springvale Road. And fourth, the setback  
15 along Springvale Road shall be a minimum of 25 feet.

16 MS. ROBESON: Can you read no. 2 again?

17 THE WITNESS: Sure. The townhouses will be  
18 located in a manner that will provide significant green  
19 areas along Pershing Drive and Ellsworth Drive and a linear  
20 green area along Springvale Road.

21 I guess in closing, you know, I just think back to  
22 something that Chairwoman Carrier said at the hearing, and I  
23 know it was taken very kindly by, you know, some of the  
24 neighbors, around, you know, what they perceived to be today  
25 something to be, you know, very upsetting and very

1 concerning in this development and, you know, it's not why  
2 we do what we do. We don't come in to alienate neighbors  
3 and create problems. There aren't a lot of developers who  
4 are willing to invest the kind of money and effort and time  
5 that it takes to go through this process and as much as I --

6 MS. ROBESON: I hate to tell you this but I've had  
7 hearings that are 27 hearings so I'm just saying.

8 THE WITNESS: And I'm -- obviously, I keep coming  
9 back because --

10 MS. ROBESON: Okay. Go ahead.

11 THE WITNESS: -- Mr. Brown told me today that I, I  
12 quit on trying to get the napkins out of the napkin machine  
13 and I said I gave up and he told me that I didn't give up  
14 easily, and I said well, when it come to the napkins, maybe.

15 But I don't give up easily because I really believe in my  
16 heart of hearts that what we're doing is the right thing.  
17 And there are always going to be situations where you face  
18 community opposition and, you know, when we started this  
19 process, we thought we were given, you know proper signals  
20 or good signals from the previous set of SOECA. We started  
21 down the process. There are a lot of people who have come  
22 out on both sides of this question. Not everybody on  
23 Springvale Road is opposed to this project. People  
24 testified who live on Springvale in support of it.

25 I think we're going to create a better long-term

1 protection for that community than if the site became  
2 another school today or if we just let, you know, Chelsea go  
3 on its way. Seventy-seven, you know, single-  
4 family/townhouse owners that take a stake in that  
5 neighborhood will never, you know, move. That will never be  
6 relocated. And that, to me, provides a much greater buffer  
7 from even the homes that are on Cedar Street today that are  
8 investment properties as commercial offices. I mean, those  
9 lots are 100 feet deep and it wouldn't surprise me, whether  
10 it's, you know, 5 years or 10 years or 15 years from now,  
11 with the intensity of development in downtown Silver Spring  
12 with the pressure for the County to continue to grow and  
13 generate tax revenue, that there will be pressure on those  
14 lots and this buffer, to me, and that's why the entire block  
15 was considered to be a buffer knowing that this  
16 institutional use wasn't there for the long-term given the  
17 state of the buildings and, you know, the state of what  
18 Chelsea was dealing with, that it may change.

19           And so I really do believe that we're doing the  
20 right thing. We're provided, you know, we're providing an  
21 incredible, you know, source of new housing that's much  
22 needed, we're providing a significant number of MPDUs, we're  
23 helping to stop sprawl. What we're providing is  
24 significantly better for the environment over the short term  
25 and the long term, we're providing much needed revenue for

1 the County in terms of additional tax revenue and we're  
2 doing it to their very reasonable density and in a very  
3 sensitive way to the community.

4 And I just, you know, I feel bad that there are  
5 people opposing us but I do believe, as Ms. Carrier said,  
6 that at the end of the day, five years from now, as in other  
7 situations where we've developed that, you know, they'll  
8 have friends in these townhouses and they will like walking  
9 on the sidewalks that exist there and they won't find the  
10 traffic to be any worse than it is today which, as everybody  
11 testified, is incredibly tranquil. So it's not an easy  
12 situation for me to be in, coming in and facing opposition  
13 like this. They've done an incredibly, I think, solid job  
14 of presenting their cases. Mr. Brown is a very effective  
15 attorney but, you know, what we're proposing is the right  
16 use and I really believe that in all my years of experience  
17 and there just aren't a lot of people who I think bring the  
18 same care and attention to detail and sensitivity to design  
19 as EYA brings and so we're happy to be here and we'll  
20 continue to see it through to the end.

21 MS. ROBESON: All right. Thank you. Mr. Brown.

22 CROSS-EXAMINATION BY COUNSEL FOR OPPOSITION

23 BY MR. BROWN:

24 Q Mr. Youngentob, would you turn to Exhibit 222,  
25 please, the Avalon School letter?

1           A     Oh, yeah.  Sorry.  Yes, sir.

2           Q     I've had a chance to look at it for a while now  
3     and I find it awfully curious that a business letter does  
4     not list the addressee.  This is a letter from the Avalon  
5     School to the Avalon School the way it looks and yet, it  
6     says Dear Mr. Messina.  Mr. Messina is not part of the  
7     Avalon School, is he?

8           A     No.  He's the head of Chelsea.

9           Q     He's head of what?

10          A     He's head of the Chelsea School.  He was the  
11     former head of the Chelsea School.  At the time this letter  
12     was sent to him, he was the head of the Chelsea School.

13          Q     Even though it's undated and the Chelsea School is  
14     not listed as the addressee?

15          A     Again, I didn't, I didn't write the letter.  I was  
16     just given a copy of it.

17          Q     Well, it does say in the last paragraph the  
18     following.  Should EYA not proceed with its purchase of the  
19     site for any reason, and that raises some interesting  
20     questions for me.

21          A     Sure.

22          Q     So many notes.  See if I can find what I'm looking  
23     for.

24          A     Can we help?

25          Q     I'm looking for Exhibit 30A.

1           A     I think it's over --

2                   MS. ROBESON:  That's the schematic development  
3 plan.

4                   MR. HARRIS:  It's on the back of that.

5                   MR. BROWN:  Very good.

6                   BY MR. BROWN:

7           Q     It says here on this plan that you intend to  
8 utilize Section 59-C-1.73(a), and that basically has to do  
9 with getting the setback here reduced.

10          A     Right.

11          Q     You're familiar with that.

12          A     Asking for the reduction in setback?

13          Q     Yes.

14          A     Yes, sir.

15          Q     What happens if you don't?

16          A     In what respect?

17          Q     Well, this letter says should EYA not proceed with  
18 its purchase of the site for any reason.

19          A     Right.

20          Q     Is that a reason why you might not proceed with  
21 the purchase of the site, because that setback is denied?

22          A     Probably not.

23          Q     How do we know?

24          A     That will be our determination once the, either  
25 the zoning's approved or if it is approved, then we would go

1 through the --

2 Q What's the basic deal, Mr. Youngentob. Are you  
3 committed to buy this property if the re-zoning is approved  
4 or is the contingency all the way out to the end of site  
5 plan approval?

6 A Like I'm sure you're very familiar with real  
7 estate contracts, we have a significant deposit at risk and  
8 if we don't close, there's not specific conformance, we lose  
9 our deposit.

10 Q Well, I'm trying to understand what reasons for  
11 which you might not, what reasons you might not proceed with  
12 the purchase of the site.

13 A One reason would be a 32-unit single-family home  
14 plan.

15 Q Okay. Well, if they insisted that you go to the  
16 full setback, it looks to me like you might lose five units.  
17 Is that enough to kill this project?

18 A You know, density and -- we might lose it here but  
19 again, you know, maybe we decide we can put it back over  
20 here because they're less comfortable there. Where we asked  
21 for the reduction here in the setback, it was because we  
22 increased the setback from this side.

23 Q I understand.

24 A So --

25 Q I'm familiar with that argument.

1           A     So, you know, the bubble gets squeezed.

2           Q     But I'm asking you to focus on my question.

3           A     Yes, sir.

4           Q     If you lose five units, is this project over?

5           A     I don't know.

6           Q     What does the contract say?

7           A     The contract doesn't relate to whether or not we  
8     lose units or not. It's in our judgment as to whether or  
9     not we decide to go forward or not.

10          Q     All right. So you're fixation on 76 units is not  
11     based on the contract, it's based on your desire to achieve  
12     76 units.

13          A     Mr. Brown, we started looking at a plan that had  
14     the potential of doing 96 units. Our fixation on 76  
15     townhouses and the Riggs-Thompson at 77 is based on what we  
16     believe to be a compatible plan for the community balancing  
17     all the interests that are out there. The interests of the  
18     neighbors as we interpret them, right or wrong, the  
19     interests of the Chelsea School, the interests of the County  
20     from a housing policy plan, for the revenue generation plan.  
21     It balances all the issues that are out there.

22          Q     So if one of these plans is ultimately determined  
23     to be superior to that one and in the process, it turns out  
24     that you might lose a unit or two, then this plan isn't  
25     necessarily going away.



1           A     A unit or two?

2           Q     Yes.

3           A     Of course. Yes. This plan is not, this plan is

4 not going away.

5           Q     Could you take out Exhibit 111, pleas?

6           A     Which is?

7           Q     This is your brochure.

8           A     Yes, sir. Page?

9           Q     Page 26.

10          A     Page 26. Yes.

11          Q     It says the Brownstones at Wheaton are located

12 adjacent to the Wheaton Metro Station, correct?

13          A     Yes.

14          Q     Page 27.

15          A     Yes. Page 27.

16          Q     Cameron Hill is located in the heart of downtown

17 Silver Spring adjacent to the Silver Spring Metro, correct?

18          A     Yes, sir.

19          Q     Now, if you would turn to Exhibit 220, please.

20          A     The survey. Yes, sir.

21          Q     Those two projects are the only projects listed

22 here on page no. 1 where you got responses from Maryland

23 projects, is that correct?

24          A     Responses from Maryland projects. Cameron Hill.

25 Let's see. Braddock Lofts is in Alexandria. Capitol

1 Quarters is in the District. Chancellor's Row is in the  
2 District. Clarendon Park is in Arlington. Harrison Square  
3 is in the District. Old Town Commons is in Alexandria.  
4 That's correct.

5 Q So you have 11 percent of your responses are from  
6 Maryland, and all 11 percent of those are from projects that  
7 are adjacent to the Metro, is that right?

8 A All the projects are within similar --

9 Q I asked only about the ones in Maryland.

10 A Repeat your question.

11 Q Please listen to my question.

12 A Sorry. I'm very sorry.

13 Q The 11 percent of responses that you got from  
14 Maryland are all from projects that are adjacent to the  
15 Metro, is that correct?

16 A Yes.

17 MR. BROWN: All right. Ms. Robeson, I move to  
18 strike this exhibit and all testimony related to it because  
19 that is not representative of what we're dealing with here.  
20 We're dealing with a Maryland project that is not adjacent  
21 to the Metro, and whether or not any of these projects in  
22 the other jurisdictions may or may not be near a Metro or  
23 not in the central business district is irrelevant because  
24 they're outside this jurisdiction.

25 MS. ROBESON: Well, it does -- I understand your

1 point. It does have some relevance to testimony from the  
2 opposition regarding auto transit, income and other issues  
3 that were raised. I think it's a good point to raise on  
4 cross-examination but I'm not going to exclude it because he  
5 testified how he came up with the study. So I under, I  
6 think your point goes more to the weight of that particular  
7 evidence than excluding it from the record.

8 MR. BROWN: Very good.

9 BY MR. BROWN:

10 Q All right. So let's stay with Exhibit 220 for a  
11 minute. With regard to question no. 5 and question no. 6,  
12 have you developed a correlation between those two  
13 questions?

14 A Correlation. In what regard?

15 Q Well, have you broken down the answers as between  
16 the, as between those who answered one in question 5 and  
17 those who answered question 6? Did you do a breakdown of  
18 question 6 as between those with one car and two cars, three  
19 cars or zero cars?

20 A No.

21 Q So you can't really draw conclusions that  
22 correlate the data in question 5 and question 6, can you?

23 A I can only draw a conclusion as to the fact that,  
24 you know, 52 percent of the people said they have one car  
25 and that there are -- I assume you're referring, I shouldn't

1    assume anything, that, you know, some people actually buy a  
2    townhouse with a two-car garage and only have one car which  
3    is --

4           Q     In fact, every one of those respondents, you have  
5    59 people who have two cars, and that's a larger number than  
6    the 35 who have a two-car garage and use it for parking one  
7    car, isn't it?

8           A     I'm sorry. Repeat the question.

9           Q     You have 59 people who have two cars.

10          A     Yes.

11          Q     And you have only 35 that have a two-car garage  
12    and use it for parking one car.

13          A     Again, I don't follow the --

14          Q     The number is smaller. The number of people who  
15    use, who have a two-car garage and use it for parking one  
16    car is smaller than the number of people with two cars,  
17    correct?

18          A     Yes.

19          Q     Therefore, it's possible that every one of these  
20    respondents who say they use the two-car garage for only  
21    parking one car have two cars and can't get the second car  
22    in the garage.

23          A     I don't believe that to be the case.

24          Q     What?

25          A     I don't believe that to be the case.

1           Q     You don't believe it's the case but it's  
2 consistent with the data, isn't it?

3           A     Again, I don't know.

4           Q     It doesn't tell us the answer one way or the  
5 other, does it?

6           A     No, it doesn't.

7           Q     Thank you. Mr. Youngentob, I come up with 63.4  
8 percent of the respondents to this, to this survey as living  
9 in your projects in D.C. Do you disagree with that number?

10          A     If you say, if you've done the map and they live  
11 in D.C., that's true. I would basically suggest, and you  
12 may not have asked this question, but there's no difference  
13 in our buyers who purchase in D.C. as who live in Maryland  
14 or live in Virginia. They are the same general demographic  
15 we design our houses. There are some people who grew up in  
16 Maryland and therefore choose to live in Maryland, some  
17 people whose jobs are in downtown Silver Spring who choose  
18 to live, you know, in downtown Silver Spring but the general  
19 demographic of our buyers, because of the product that we  
20 create, is no different between D.C., Maryland or Virginia.

21          Q     Do you think that the general proximity to mass  
22 transit, including D.C. subway and Metro and buses is the  
23 same among the D.C. demographics of your customers as it is  
24 among the Virginia ones?

25          A     The locations in Virginia, Old Town Commons,

1 Cameron, no, sorry, not Cameron Hill, Clarendon Park,  
2 Braddock Lofts, they are in general proximity to Metro as  
3 this site is so, yes.

4 Q And would you think that demographically, again,  
5 proximity to work for your Virginia residents is the same as  
6 the D.C. residents?

7 A I do. I believe that, you know, they're all --  
8 people are choosing these neighborhoods because of their  
9 ability to walk to amenities, whether it be in D.C., Old  
10 Town Alexandria or in Maryland, and whether that amenity be  
11 restaurants, shopping or Metro or in addition to Metro,  
12 they're all very similar in characteristics and the profile  
13 of our buyers who buy in Metro-oriented neighborhoods are  
14 all very similar regardless of the jurisdiction they're  
15 purchasing in.

16 Q All right. Now I want to talk a bit about your  
17 picture show, Exhibit 218.

18 A The picture show. Yes, sir.

19 Q Again, with reference to Exhibit 111, would you  
20 turn first to page 28? This is Fallsgrove.

21 A Yes, sir.

22 Q According to your own data in Exhibit 111, this  
23 consists of 374 units on 253 acres, the entire Fallsgrove  
24 project, is that right?

25 A No. That's not correct.

1 Q Your numbers are not correct in your own brochure?

2 A Well, the whole site size was 253 acres. The  
3 portion of the development that EYA built was 374 units.  
4 The actual development also included I think it's close to  
5 1,000 apartments and condominiums, and then Pulte did two-  
6 over-two condominiums and another, I forget if it's 175  
7 singles. I think there were over 2,000 total residential  
8 units and a million square feet of office on the 253 acres  
9 including 150,000 square feet of retail.

10 Q In any case, looking at your own data here on  
11 Exhibit 111, you provided a wide variety of homes yourself,  
12 18, 22 and 24-foot wide townhomes, right?

13 A Yes, sir.

14 Q Also, 32 and 34-foot wide courtyard homes.

15 A Yes.

16 Q And 40-foot wide detached patio homes and 42-foot  
17 wide single-family homes.

18 A That's correct.

19 Q And all of this was architecturally integrated by  
20 you as the grand designer of this project.

21 A That's correct. And I think what makes this so  
22 relevant too is the fact that here, you were dealing with  
23 253 acres where you wanted to create a variety of housing  
24 types across that large-scale development and in the  
25 situation of Chelsea School, I look at that similarity to

1 it, you already have single-family neighborhood, single-  
2 family homes there and so what you're, you already have  
3 multi-family homes in that same.

4 If you were to take a 250-acre circle around the  
5 Chelsea School site, it would include a very wide range of  
6 mix of units. What's missing from the Chelsea School  
7 neighborhood or area are townhouses as a potential housing  
8 alternative for people and so that's why I think it's most  
9 appropriate that we're proposing the level of density and  
10 the type of housing there as opposed to trying to mix all  
11 these different housing types as we did at Fallsgrove.

12 Q But in concluding that there are 24 townhomes per  
13 acre in Fallsgrove, you excluded from that calculation  
14 adjacent properties that are developed less densely or with  
15 open space, right?

16 A We did exclude in that calculation the single-  
17 family homes, that's correct. We only included the townhome  
18 density, right.

19 Q So why is it relevant to include in your density  
20 calculation for Chelsea Court the historic setting of the  
21 Riggs home which in no way, in no way implicates how dense  
22 the project is among the homes themselves? Isn't it like if  
23 there were a swamp over there, would you call this project  
24 less dense because there was swampland you couldn't build  
25 on?



1           A     Well, again, I think it comes back to my original  
2 testimony. You asked me this similar question, you know,  
3 why would you take a single-family home lot and not include  
4 the greenspace around single-family home lot, why would you  
5 just include its house. Of course you include the green  
6 area and the yard space around the house so to me, it's the  
7 same analogy.

8           Q     Let's go to page 18 of 111.

9           A     Yes, sir.

10          Q     This middle picture of the development, I'm trying  
11 to understand this. I see in the background a lot of  
12 development that's even higher. Is that part of your  
13 project?

14          A     No. That's not part of our project.

15          Q     What is that, even greater density housing?

16          A     Yes, it is. Apartments on top of retail.

17          Q     On page 29, this page tells me that you're going  
18 to construct 92 townhomes and courtyard homes on infill  
19 parcels on 31.7 acres, is that right?

20          A     The entire site, again, was -- it's very  
21 challenging sometimes to separate out multiple components.  
22 Again, if you're familiar with the National Park Seminary,  
23 this was a 32 acre site that had probably, I don't know, 20  
24 or so historic buildings and so there's, you know, multi-  
25 family developed in the historic buildings, there's, you

1 know, single-family homes in the historic buildings some of  
2 which, you know, were relocated, picked up and moved,  
3 there's new roadways, there's a new parking garage developed  
4 in the historic setting and then to be able to pay for all  
5 of that historic renovation, the County chose us to  
6 basically develop the new housing to create land revenue to  
7 help subsidize the preservation. So again, it's, you can't  
8 just separate out, you know, the townhouses, you know, from  
9 -- the townhouses don't represent the 32 acres.

10 Q Again though, it was a mix of housing. Like in  
11 Fallsgrove, you designed a mix of housing to fit and  
12 integrate together themselves rather than plunk townhomes in  
13 the middle of a preexisting single-family neighborhood.

14 A I take offense to the word of plunking townhomes.

15 Q Okay.

16 A I don't think we plunk them down in any regard. I  
17 think we very sensitively designed the units to address the  
18 single-family homes, set them back from the surrounding land  
19 uses, preserve the Riggs-Thompson house so it related better  
20 to the single-family homes across the street, so plunking is  
21 not the right word. We came up with a townhouse development  
22 program that we felt was the best use of that land given all  
23 the different goals that were out there including the  
24 County's goals for additional housing, the goals of  
25 providing MPDUs, the goals of satisfying community concerns

1 and, you know, all the various goals that the Chelsea School  
2 had with regard to their property and its value.

3 Q But unlike in Fallsgrrove or National Park, this  
4 was an area where you felt more than one housing type was  
5 not appropriate.

6 A That's correct given the mix of housing that  
7 already exists in the surrounding neighborhood. And if you  
8 took even a 32 acre parcel around the Chelsea School site,  
9 that 32 acres would include a variety of housing types  
10 including multi-family, single-family, senior housing not  
11 dissimilar from what happened at NPS or, you know, or  
12 Fallsgrrove.

13 Q All right. Let's turn to page 3 of 111.

14 A 3, yes.

15 Q Harrison Square.

16 A Yep.

17 Q At the U Street Metro. My recollection of the U  
18 Street Metro area is consistent with this aerial photograph  
19 on page 3 that your -- this is totally urban area, is that  
20 correct?

21 A Oh, it's a very urban area, yes, sir. But, you  
22 know --

23 Q You're not suggesting that this is in any way  
24 comparable to the area surrounding the Chelsea School  
25 property, are you?

1           A     Well, you know, it's funny that you say that  
2     because, you know, when you think about the scale of  
3     density, I mean, this whole area, there are very few high-  
4     rise buildings. It's all, you know, four and five-story,  
5     maybe there's a six-story office building I think that the  
6     District owns, a couple of newer, you know, seven story  
7     condominium buildings in this wider vicinity but it's not  
8     downtown D.C. so it's not, it's mostly residential and, you  
9     know, you go a block or two away from this and it's  
10    basically a row home district.

11                So, you know, in many ways, I think the intensity  
12    of downtown Silver Spring, of the CBD, is actually greater  
13    density than the general vicinity around this site so, yes.  
14    It's urban because it's an urban street grid and it's, you  
15    know, considered, you know part of the District so it will  
16    probably be more considered in the CBD of Silver Spring but  
17    in terms of the overall density, I think actually, if you  
18    were to draw a similar ring around the center of this site,  
19    you know, you probably would have similar density to what  
20    you have in Silver Spring.

21                And the density of 40 units per acre, you know,  
22    again, you know, the difference here is when you're at site,  
23    you don't perceive 40 units per acre. You perceive a front  
24    facade and a streetscape and that's the way people perceive  
25    density. They don't see it from aerial view. They don't

1 see it from, you know, a number standpoint. They see how  
2 they can interact with it on the street, whether it's  
3 adjacent to open space, adjacent to street trees or adjacent  
4 to the front facade of a building. That's how people  
5 perceive density. You perceive a 20-story building as dense  
6 because it's so tall. You don't perceive a three-story  
7 townhouse as dense because you're standing in front of it.

8 Q I think you made that point with reference to  
9 Exhibit 218M.

10 A M. The aerial of Clarendon.

11 Q You're talking about perceptions from the street  
12 and we have facades here in Exhibit M along the street that  
13 look, that are supposed to, I guess the word is dialogue  
14 with the houses across the street, right?

15 A Correct.

16 Q But my question is when you're standing in the  
17 middle, say in the middle of this photograph at this point  
18 where I've drawn the "X" on here, don't you see a --

19 MS. ROBESON: Wait. Wait. We need that, wherever  
20 you've drawn the "X". Can you just describe where you've  
21 drawn the "X"?

22 MR. BROWN: Yes. I've drawn the "X" here on the  
23 open sidewalk on the south side of the street.

24 MS. ROBESON: Okay. The --

25 THE WITNESS: Directly in front of the alley.

1 MS. ROBESON: -- third row of townhouses from the  
2 left?

3 MR. BROWN: Yes.

4 MR. HARRIS: Between the third and the fourth.

5 MS. ROBESON: Between the third and fourth, okay.

6 MR. BROWN: Yes.

7 MS. ROBESON: Okay. So that's the spot.

8 BY MR. BROWN:

9 Q At that point --

10 MS. ROBESON: On 218M.

11 BY MR. BROWN:

12 Q At that point, when you're looking into the  
13 project, you're seeing a long row of asphalt where the,  
14 where cars come in and park at their garages, isn't that  
15 correct?

16 A That's correct. And that's one of the things I  
17 like about the Chelsea design because we don't have the curb  
18 cuts with the alleys coming out to Springvale and because  
19 the level of the alley, as I testified previously, is  
20 actually below the street grade of Springvale. You won't  
21 actually perceive or feel that asphalt, you'll be above it  
22 and it will be screened because you're much further back  
23 from it, you don't have the curb cut, you don't have the  
24 driveway apron and you have the double row of street trees,  
25 you know, that you're walking under on the sidewalk so it's

1 a very different situation than what you see here.

2 Q What's the caliper of those trees going to be when  
3 they're planted?

4 A You know, whatever the County requires us to  
5 plant, you know, typically, I think they're, you know,  
6 anywhere from two-and-a-half to four inches when they're  
7 originally planted but I think, you know, in these pictures,  
8 you go back on, what exhibit is this again, this is 2 --

9 MR. HARRIS: 218.

10 THE WITNESS: 218. Five years, go back to, let's  
11 call it --

12 MR. HARRIS: E.

13 THE WITNESS: Yeah, E or E or F. Let's look at E.  
14 These trees were, you know, that same similar caliper, you  
15 know, today, you can see they're basically as tall as the  
16 45-foot townhouse and the caliper of the tree is probably,  
17 you know, 8 to 10 inches around already. So, yes. When  
18 they're first planted, they are small but in a very short  
19 time period, they grow up and become quite mature and  
20 provide, you know, a kind of a setting that will be much  
21 superior than even what's there today.

22 BY MR. BROWN:

23 Q So the residents along Springvale should be  
24 patient for four or five years while these trees grow into  
25 this kind of picture, correct?

1           A       Again, you know, from day one with a double row of  
2 street trees with these facades, I think it will be far  
3 superior than what's out there today and yeah, in four or  
4 five years, it will be even better.

5           MR. BROWN: I have nothing further.

6           MS. ROBESON: Okay. Mr. Harris, any redirect?

7           MR. HARRIS: No. I don't have any redirect.

8           MS. ROBESON: Ms. Volk.

9           MS. VOLK: A couple questions.

10          MS. ROBESON: And you get another chance at  
11 redirect, Mr. Harris.

12                   CROSS-EXAMINATION BY MS. VOLK

13           BY MS. VOLK:

14          Q       Sorry. Since you spoke so fast, I couldn't, I  
15 couldn't catch this part. For the Fallsgrove townhouse  
16 development, you said it was in the middle of a master plan  
17 approved process or what was that?

18          A       Well, there was -- correct. We had to seek a,  
19 basically it was a re-zoning for the Fallsgrove development  
20 that the original master plan, I believe, when it was  
21 approved called for 1,000 housing units and two million  
22 square feet of development and when we put the property  
23 under contract, we went back in the City of Rockville and  
24 thought that reversing it for 2,000 housing units and a  
25 million square feet of office was actually a better



1 development plan so we did go back to a very intensive re-  
2 zoning/master plan/site plan process.

3 Q Oh, okay. So it's now incorporated into the  
4 master plan.

5 A It was always in the City of Rockville so it's in,  
6 I mean, I don't know if it's incorporated. The fact that  
7 it's built, it would be part of the master plan as a, you  
8 know, as a completed development.

9 Q Okay. So the master plan discussed some sort of  
10 development like this.

11 A No. Again, the original master plan was for 1,000  
12 housing units and two million square feet of office and we  
13 went back through a zoning process to get 2,000 housing  
14 units and a million square feet of office as opposed to what  
15 was originally in the plan.

16 Q Okay. So the master plan was, somehow involved,  
17 there was some sort of activity or some sort of interaction  
18 with the master plan, right?

19 A Well, again, I mean, there was a master plan  
20 recommendation for the site that was, in effect, totally  
21 opposite of what we eventually got approved for the site.

22 Q Okay. All right. The survey. I never got to see  
23 the survey but I just had just a couple questions. This was  
24 a survey just for your particular townhouse developments,  
25 correct, most of them in Virginia and D.C., correct?

1           A     Mr. Brown pointed out that the percentage was  
2 mixed. I forget your exact percentage of Maryland projects  
3 but again, I stand firm in my belief that the  
4 characteristics of the people who are buying our townhouses  
5 will be identical to the people who are buying our  
6 townhouses at this particular development, and their  
7 lifestyle choices and their lifestyle patterns of commuting  
8 will be very similar to what we, you know, sell them in  
9 other locations because the reality is, they're the same  
10 ages, the same economic levels and they're buying and paying  
11 a premium to live in our homes because they have proximity  
12 to all of these amenities that they so badly seek, just like  
13 some of the amenities that you seek and that's why you live  
14 where you live.

15          Q     The next question will be yes or no and I know you  
16 hate those, but this is a survey of your townhouse  
17 developments. Yes or no?

18          A     Yes.

19          Q     Okay. But this is not a survey that took into  
20 account any people's attitudes or feelings of people who  
21 live outside of your townhouse development who live in that  
22 same area, correct? This is not a neighborhood survey.  
23 This is your EYA townhouse development survey, correct?

24          A     Yes.

25          Q     Okay. So all the opinions of this survey are just

1 based on the people who live in your townhouses but not in  
2 the same neighborhood.

3 A Yes. And I think why it's relevant is --

4 Q I --

5 A Well, I have to finish.

6 Q I --

7 MS. ROBESON: No. I understand why you --

8 THE WITNESS: Okay.

9 MS. ROBESON: You've already testified.

10 THE WITNESS: Okay.

11 MS. ROBESON: And your attorney, if you want to  
12 say it again, your attorney can ask you.

13 THE WITNESS: Thank you. Sorry.

14 MR. HARRIS: I just have to say something. Ms.  
15 Volk was among the most, of the witnesses here who refused  
16 to answer any of my questions by yes or no so --

17 MS. ROBESON: Okay. Mr. Harris --

18 MS. VOLK: That is your opinion, Mr. Harris.

19 MS. ROBESON: -- I don't want to go there.

20 MR. HARRIS: Okay.

21 MS. ROBESON: It's 4 --

22 MS. VOLK: You are a --

23 MS. ROBESON: -- 20 to 5 so --

24 MS. VOLK: You're an experienced litigator, Mr.  
25 Harris. I don't think I'm the first person you've ever

1     countered.

2                 MS. ROBESON:   Okay.   Ms. Volk.

3                 MS. VOLK:    Okay.    Sorry.

4                 MS. ROBESON:   This is not going to go there.

5                 MS. VOLK:    Okay.    All right.

6                 MS. ROBESON:   So you ask questions.   Mr.

7   Youngentob, give an answer.

8                 MS. VOLK:    All right.

9                 THE WITNESS:   Yes, ma'am.

10                BY MS. VOLK:

11                Q     You mentioned that Fannie Mae said that the  
12   average number of years that people live in a single-family  
13   house is seven, correct?

14                A     The average life of a mortgage is seven years and  
15   that typically corresponds to how long people live in a  
16   home.   Now, I'm sure with refinancings today, you have --  
17   but that's my knowledge of what they typically say about  
18   single-family homes, yes.

19                Q     Okay.   Do you know the average number of years  
20   people typically live in the north Silver Spring area in  
21   these single-family houses?

22                A     No, ma'am, I don't.

23                Q     Okay.

24                 MS. VOLK:    That's all.   Thank you.

25                 MS. ROBESON:   All right.   Do you --

1           MR. HARRIS:  Nothing further.

2           MS. ROBESON:  You don't want to redirect?

3           MR. HARRIS:  No.

4           MS. ROBESON:  Okay.  You have the opportunity.

5           MR. HARRIS:  I know I do.  I'm not going to cross

6  that line.

7           MS. ROBESON:  I just have -- I want to double-

8  check a couple of things on what you're currently proposing

9  for your binding elements.

10          THE WITNESS:  Sure.

11          MS. ROBESON:  Because I'm looking at 1, Exhibit

12  115, which I think is your final or what you submitted as

13  the binding elements, and you just read a couple of new

14  ones.  Can you show me which ones you're -- are you keeping

15  all eight?  Well, forget the access one right now.

16          THE WITNESS:  Right.  Okay.  No. 3 would be gone.

17          MS. ROBESON:  Number --

18          THE WITNESS:  Let's start with no. 1, yes.  No. 2,

19  yes.  No. 3, obviously, no.  No. 4, yes.  No. 5, yes.  No.

20  6, Yes.  No. 7, yes.  No. 8, yes.

21          MR. HARRIS:  Look again at no. 3.

22          THE WITNESS:  Oh, I'm sorry.  Yes.  I thought --

23          MS. ROBESON:  Okay.

24          MR. HARRIS:  Yes.

25          THE WITNESS:  I thought it was --

1 MS. ROBESON: You thought it was the --  
2 THE WITNESS: I thought it was the access.  
3 MS. ROBESON: You never submitted in this  
4 record --  
5 THE WITNESS: Correct.  
6 MS. ROBESON: -- the binding element for --  
7 THE WITNESS: Of the access.  
8 MS. ROBESON: Okay.  
9 THE WITNESS: Right, right. I'm sorry. Yes.  
10 MS. ROBESON: I just wanted to be sure.  
11 THE WITNESS: Sorry. My mistake.  
12 MS. ROBESON: So what were that, can you, what --  
13 looking at 115, can you show me what your, what you changed?  
14 THE WITNESS: Yeah. Well, we added to -- the  
15 historic setting for Riggs-Thompson will remain at a minimum  
16 of 37,056 square feet.  
17 MS. ROBESON: Okay. Okay.  
18 THE WITNESS: I think with regard to the green  
19 area --  
20 MS. ROBESON: You said a significant of  
21 greenspace --  
22 THE WITNESS: Right. It's really just trying  
23 to --  
24 MS. ROBESON: Oh, bordering Pershing.  
25 THE WITNESS: Pershing, Ellsworth Drive and a

1 linear green along Springvale. It's trying to basically  
2 provide some comfort that the general layout of the plan  
3 stays intact.

4 MS. ROBESON: Okay.

5 MR. HARRIS: So that probably would be an  
6 addition --

7 THE WITNESS: No. 4.

8 MR. HARRIS: -- to no. 4.

9 MS. ROBESON: Okay.

10 MR. HARRIS: A second sentence to it if you will.

11 MS. ROBESON: Okay. Now, are you going to submit  
12 that in writing because --

13 MR. HARRIS: Yes.

14 MS. ROBESON: Okay. And I'm sorry. Are there any  
15 other changes?

16 THE WITNESS: Well, I guess, I guess no. 3 that we  
17 mentioned really is already covered --

18 MR. HARRIS: Right.

19 THE WITNESS: -- by no. 3 on the existing binding  
20 elements. And then no. 4 was the setback along Springvale  
21 Road should be a minimum of 25 feet. That would be an  
22 additional one that's not mentioned there.

23 MS. ROBESON: Okay. So that's new.

24 MR. HARRIS: Ms. Robeson, just for clarity, given  
25 that I haven't had a case before you before, my experience

1 with the other zoning hearing examiners is that after the  
2 record or after the hearing is complete but before the  
3 record is fully closed, they want us to take the development  
4 plan, to write the binding elements on there --

5 MS. ROBESON: That's right.

6 MR. HARRIS: -- on the plan itself, et cetera, so  
7 we would intend to do that whenever that opportunity --

8 MS. ROBESON: Oh, yes. I was just trying to find  
9 out what the --

10 MR. HARRIS: Oh, okay.

11 MS. ROBESON: -- bottom line proposal was now.

12 MR. HARRIS: I see. Yes.

13 MS. ROBESON: So procedurally, you are going to  
14 take Exhibit 210, which is the alternative road alignments.

15 THE WITNESS: 210 and 220 --

16 MS. ROBESON: The 224 series of different --

17 THE WITNESS: Correct. I think these will be,  
18 because they're actually done to scale and because they  
19 actually show a specific kind of road and road widths,  
20 that's what we'll be discussing with Park and Planning staff  
21 tomorrow at 11.

22 MS. ROBESON: Okay. And Park and Planning, I  
23 haven't had a chance to retouch base with Staff but how much  
24 time do you think, Mr. Brown, where are you in this process  
25 besides, how much time you think you would have to respond?



1                   MR. BROWN: Well, Park and Planning is going to  
2 have its views and I would hope that they would express them  
3 and that we could read that and make a response. That  
4 response will be either a substantive response or perhaps a  
5 procedural response saying that we would like to present  
6 some responsive testimony to it. I don't know which one of  
7 those it's going to be right now.

8                   MS. ROBESON: Okay.

9                   MR. BROWN: It could be a substantive response  
10 that, but I don't want to put, I don't want the substantive  
11 response to be testimonial in nature. For example, I don't  
12 want to send you a letter saying that Mr. Doggett looked at  
13 this and had the following objections because then that  
14 would be without subjecting him to cross-examination on  
15 those objections, and that's not right so I just don't know  
16 for sure.

17                  MS. ROBESON: Well, I guess -- okay. So you said  
18 at the outset, you weren't sure another hearing is  
19 necessary. What you're telling me is you need to wait and  
20 see the comments from Technical Staff.

21                  MR. BROWN: Yes.

22                  MS. ROBESON: Which may be here Friday. Mr.  
23 Harris, where -- I have, I do have a hearing date if  
24 necessary but I can't get it until -- the only date that I  
25 can get Deposition Services here is Friday which I believe

1 Mr. Brown is not available. So knowing that information,  
2 where are you?

3 MR. HARRIS: Well, the plans have been presented.  
4 We, you know, today and there is an opportunity to respond  
5 today and to --

6 MS. ROBESON: Well, okay. That's not what I --  
7 they don't have the benefit of Technical Staff. What we can  
8 do is this. We can wait and see what the comments are and  
9 we can keep the record open. It's currently open until the  
10 25th I think. We can keep the record open for -- today is  
11 the 17th, 25th. We could keep the record open until the  
12 first Friday in August, I didn't, I don't have the calendar  
13 with me, and if you feel that you need to present, you know,  
14 bring Mr. Doggett back or you're sufficient just with  
15 submitting closing, we can leave it there and just leave the  
16 record open for, until August, whatever the first Friday is  
17 in August.

18 MR. HARRIS: If it -- I'm sorry. If it helps at  
19 all, I don't see a need to cross-examine Mr. Doggett. I  
20 have no problem with him or Mr. Brown submitting comments.  
21 We can reply to those comments in our closing arguments as  
22 we wish. I'll forego the opportunity to cross-examine him  
23 so that would enable them to put them in in writing and more  
24 expeditiously.

25 MS. ROBESON: And I appreciate that. I think that

1 I'm required to give the opportunity for some cross-exam if  
2 somebody wants it. Most, you know, you may be able to make  
3 your points simply by submitting comments in writing.

4 That's up to you.

5 MR. BROWN: I'll keep Mr. Harris' suggestion in  
6 mind. I mean --

7 MS. ROBESON: Okay.

8 MR. BROWN: I'm not trying to drag out this thing  
9 to another hearing date, believe me.

10 MS. ROBESON: You don't like this? I'm teasing.  
11 Let's do this. Let's keep the -- does anyone, I don't have  
12 my calendar with me. What's the --

13 MR. BROWN: August 5th is the first Friday --

14 MS. BAR: August 5th is Friday.

15 MR. BROWN: -- in August.

16 MS. ROBESON: Okay. We will keep the record open  
17 August 5th provided that, we'll keep the record open until  
18 August 5th. If you feel that you need live witnesses and  
19 cross-examination, then you can let us know prior to August  
20 5th. Otherwise, we will have everyone's -- you can respond  
21 to Park and Planning's whatever they present and we'll have  
22 everybody's closing arguments and your response to whatever  
23 Park and Planning's recommendations are on the road  
24 alignments by August 5th.

25 MR. HARRIS: By August 5?

1 MS. ROBESON: 5. I'm sorry?

2 MR. HARRIS: That's two weeks beyond the --  
3 closing arguments and otherwise are going to be due the 25th  
4 so that, that's an additional two weeks, plus or minus I  
5 guess. I don't have my calendar either.

6 MS. ROBESON: Two weeks.

7 MR. BROWN: No.

8 MS. ROBESON: The 25th.

9 MR. HARRIS: 25th, no. So it's less than two  
10 weeks. Week-and-a-half.

11 MS. ROBESON: Yes.

12 (Discussion off the record.)

13 MR. BROWN: That's fine.

14 MS. ROBESON: Okay. So that's how we'll leave it.  
15 We'll leave the record open until August 5th unless I hear  
16 from Mr. Brown. Well, I will hear from you in closing  
17 arguments and commentary on Park and Planning's response but  
18 unless I hear from you requesting cross-examination or  
19 additional testimony, we will go ahead and leave the record  
20 open just until August 5th.

21 MR. HARRIS: May I then ask if Mr. Brown were to  
22 request that, then when would you set or when would that  
23 hearing be?

24 MS. ROBESON: That I have to work on.

25 MR. HARRIS: Okay.

1 MS. ROBESON: I don't, I can't tell you right now.

2 MR. HARRIS: Okay. But it might be in August?

3 MS. ROBESON: I -- definitely, we will try to  
4 expedite it. I can't promise anything right now  
5 unfortunately because typically, we don't have hearings in  
6 August but we will deal with that when we come to it, all  
7 right?

8 MR. HARRIS: Okay. And I'm learning to cut down  
9 my cross-examination and redirect so --

10 MS. ROBESON: I thought you were very quiet today.  
11 All right. So right now, we will adjourn this hearing,  
12 keep the record open until August 5th unless we hear  
13 otherwise.

14 MR. BROWN: I'll try to let you know well in  
15 advance of that date.

16 MS. ROBESON: That would be helpful. Thank you  
17 very much.

18 MR. HARRIS: Okay. Thank you.

19 MS. ROBESON: Thank you.

20 (Whereupon, at 4:51 p.m., the hearing was  
21 concluded.)

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23

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2

% Digitally signed by Josephine Hayes  
ELECTRONIC CERTIFICATE

DEPOSITION SERVICES, INC., hereby certifies that  
the attached pages represent an accurate transcript of the  
electronic sound recording of the proceedings before the  
Office of Zoning and Administrative Hearings for Montgomery  
County in the matter of:

PETITION OF CHELSEA RESIDENTIAL ASSOCIATES, LLC

(an affiliate of EYA)

Case No. G-892

By:

*Josephine Hayes*

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Josephine Hayes, Transcriber